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Gompers, Samuel

Mr. Gompers under cross-examination

New York

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MR. GOMPERS UNDER CROSS-EXAMINATION

Excerpts

from the testimony of Mr. Gompers before the Committee of the New York Legislature Investigating Housing Conditions

(Lockwood Committee)

Reprints from

Law and Labor

PUBLISHED by the LEAGUE for INDUSTRIAL RIGHTS
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Law or No Law

THE League for Industrial Rights is not opposed to unions—notwithstanding the statements of some of its critics. There is, however, a fundamental issue between the philosophy of the League and such labor leaders as Mr. Samuel Gompers. This difference concerns primarily the function which Government and Law should fill in the solution of the industrial question.

To understand this difference and the history of the struggle which has been waged about it in the last quarter of a century, one should not only read but study the three pamphlets, "Industrial Liberty and the Open Shop,"* "The Struggle for Industrial Liberty,"† and this accompanying reprint of the salient parts of Mr. Gompers' testimony before the Lockwood Committee. Mr. Gompers' testimony, which followed the two published studies of the League, demonstrates how fairly and accurately the League had dealt with these issues.

Mr. Gompers' testimony recognized the dangers which the League has been combatting, even admitting that expulsion or exclusion from a union in an organized trade is equivalent to "capital punishment" as to those journeymen who desire to pursue their trade, but he maintains that the correction of these evils must be left to the voluntary action of the organizations of which they are the incident and outgrowth. The League contends that the evils and dangers growing out of the undue power of organized capital and organized labor are so far-reaching that society, through its usual agencies, must regulate and repress them. In the early history of the growth of corporations, such regulation was not necessary. In the early history of the growth of labor unions, their comparative unimportance and their limited power made such regulation less manifest. With the tremendous extension of these institutions, there has developed a power for good or ill, the regulation of which cannot be left solely to voluntary self-restraint.

For its own protection, society is forced to intervene and lay down rules for the correction of the most obvious abuses and the general conduct of the game. It can no longer stand on the sidelines and hold the time watch while the combatants roll up their sleeves and engage in a struggle disastrous not only to themselves, but to all outsiders.

There is no form of activity with which society has shown greater patience than industrial warfare. There is no other organized activity sanctioned by society in peaceful times which involves such a train of unfortunate consequences as the conduct of strikes. It is, therefore, inevitable that society, which has regulated so many minor activities, should turn its attention to the regulation of the abuses of organized action and industrial warfare, involving as they do the most vital interests of a commercial nation.

For these reasons, the League believes that organized labor has its face pointed in the wrong direction when it denies society the right to regulate such abuses and that it would fare far better in its efforts to secure public sanction if it would frankly recognize the necessity for regulation and ask merely that such regulation be fair and reasonable.

The demand of Labor that society keep hands off of that which is its supreme interest is untenable and intolerable. The uncompromising attitude of Mr. Gompers will simply rebound to his discredit. The solution of the problem along the inevitable lines of a proper adjustment between society and these special interests will be left inevitably in wiser and saner hands.

* Second Edition is now ready for distribution by the League.
† Now appearing serially in LAW AND LABOR. Will be ready for distribution in pamphlet form late in August.

Mr. Gompers Under Cross-Examination

Mr. Untermyer, counsel for the Committee, drew to the attention of the president of the American Federation of Labor many abuses of power practised by the building trades unions, and the fundamental conflict between these activities and our free institutions. Mr. Gompers admitted the abuses and the absence of a present remedy therefor, but vigorously protested against any extension of the power of the Courts to suppress them. He contended that the correction of these evils should be left to the unions themselves.

April 21st and 22d, 1922—Pages 6714-6889 of the Record

The questioning turned upon the purpose of organized labor to secure the organization of all employes into trade unions and to refuse to work in shops where nonunion men were employed. The testimony continued: (p. 6720 of the record),

"Q. Well, you say your preference, or the preference of organized labor, is that; but, isn't that one of your fundamental principles, that organized labor will not work with unorganized or nonunion labor when there is any possibility of avoiding it? *A. Yes, sir.*

"Q. That being so, Mr. Gompers, can you find any justification for a limitation upon the membership of a labor union? *A. As a matter of principle, no.*

"Q. As a matter of practice can you find any justification for it? *A. Yes.*"

After stating that he, personally, and the American Federation of Labor use their influence to prevent the limitation of membership, Mr. Gompers discussed the considerations of so-called self-preservation which lead unions to limit their membership. The questioning then turned to expulsion from membership and continued: (p. 6727),

"Q. Would you ever expel a man from a Labor Union for any reason? *A. Not if I could help it.*

"Q. If you had a constitution and by-laws in your Union that did not permit you to expel them that would help it, wouldn't it? *A. Hardly.* * * *

"Q. You think it would notwithstanding its constitution and by-laws? *A. Yes, sir, they are humans and they are likely to err and revolt.*"

The witness stated that he was in favor of having the constitution and by-laws of the union expressly forbid the expulsion of members. The testimony continued:

"Q. Where expulsion involves as a necessary incident the denial to a man of the right to live, the right to work at his trade and make a living, you agree, do you not, that it is absolutely contrary to the very fundamental law of a Labor Union? *A. Yes, sir, and if I may, I have compared it to capital punishment. I am opposed to capital punishment. I am opposed to killing whether officially or unofficially or private. To expel a man from membership in a Union, if it is effective it is practically capital punishment, and if it is not effective it is ridiculous.*"

Mr. Gompers then condemned as practical expulsion fines upon labor union members of from $500 to $2,000. The questioning turned to the issue of a remedy. The testimony continued:

"Q. Suppose it appeared, as it does in the record here, that practically every Labor Union in this state connected with the building trades, and certainly in this City, having a constitution and by-laws, have provisions for expulsion of members without any power of review; don't you think that the State should regulate that so that the courts would have the right of review over the expulsion of members? *A. No, sir.*

"Q. You don't? *A. I do not.*

"Q. You think that the Labor Unions should be permitted to exercise this autocratic and despotic power of capital punishment without any say-so by the courts? *A. God save Labor from the courts.*"

Having expressed his lack of faith in the courts and his view that although impartial between most litigants where "a question of the interests between employers and workmen, insofar as their relations are concerned, the courts are most unfair," Mr. Gompers made this declaration of faith in his own impartiality: (p. 6731),

"Q. You think yourself an impartial judge? *A. I have no perverted point of view on any subject to which I give expression.*"

After some wandering the questioning returned to the issue as to whether Mr. Gompers would advocate review of the right to membership in a trade union by the courts and continued: (p. 6734)

"Q. I would like to get back to the question about which I was inquiring of you, that is, the question of whether there should be a right of review vested in the courts against the expulsion of a man from a union and the destruction of his opportunity to earn a living, what you call capital punishment meted out to a laborer. You have said that you believe that there should be no such thing as expulsion, and if expulsion is resorted to by a labor union on an insufficient ground, you would allow that injustice rather than to permit an appeal to the court.

Is that right? *A. If that is the only alternative, yes.* * * *

"Q. Let us see if it does not: Would you permit any kind of review in the courts from the expulsion of a member of a labor union? *A. I would not.*

"Q. You would allow that injustice to remain unredressed until the enlightenment of the labor movement has reached the stage at which expulsion would no longer exist? *A. I would, yes.*"

Again:

"Q. But you have told us, Mr. Gompers, that you think that all these provisions with respect to expulsion should be expunged? *A. Yes, sir.*

"Q. Now, they exist, and they are being exercised, could the court do any injustice if it were given the right to leave you those expulsions where they were unjust—you say all expulsions are unjust? *A. I would not—well, I suppose as one citizen I might enter my protest, and would, but would not give my assent or approval to my measure that would increase the power of the courts n any matter affecting the organization of the working people of our country or our State.*"

Turning then to the question of qualification for membership, the record shows: (p. 6745),

"Q. You would allow a criminal to go back into his Union? *A. I would.*

"Q. So would I. You would allow a man, after serving his time, to go back into his union, if he had served his term? *A. Yes, sir.*

"Q. So that good character is not an essential of membership in your point of view, is it? *A. Yes, sir.*

"Q. It is? *A. I answered in the affirmative—it is not an essential.*"

Mr. Gompers stated that he would have no objection to holding an examination to test the workman's skill at his trade as a condition to his admission to membership, and the testimony shows: (p. 6746)

"Q. And suppose that right were exercised wantonly and arbitrarily and uniformly for the purpose of limiting membership, would you have any right of review anywhere from such abuse of it? *A. Right of review within the Labor movement, yes.* * * *

"Q. You would not allow the right of review to a man who wanted to get into a Union and who was refused admittance on the pretext that he was not qualified, if he could show, overwhelmingly, that he was the best qualified man in the Union, you would not allow the right of review in the courts in such a case, would you? *A. I would not.*

The testimony then turned to the question of the limitation of apprentices and after reviewing the disclosures in connection with this practice already on the records of the committee, the testimony continued: (p. 6757)

"Q. As I understand now, you know the unions have their own way on the subject, haven't they? they make any regulation they please, limiting the apprentices, and there is no right of review or supervision over their action—you understand that, don't you? *A. Yes.*

"Q. And you would like to leave it that way? *A. I would try to remedy it.*

"Q. But you would leave it that way so far as any remedy in the courts is concerned? *A. Yes, sir.*

"Q. Where would you put the remedy? *A. I would try to bring it in the voluntary movement of labor.*

"Q. Then you would always leave it with Labor, wouldn't you? *A. Yes.*

"Q. To decide for itself? *A. Yes.*

"Q. Whether organized society shall have the right to have these people go in the trade as apprentices, and how many there should be? *A. Organized society has no understanding of the affairs of labor.*"

The discussion moved on to the question of jurisdictional disputes. The record reads: (p. 6760),

"Q. We are discussing an interesting situation, and I am asking you a plain question. Do you think it is right that when Labor Unions have questions of difference between themselves, jurisdictional questions as to which Union should get one kind of work, and which should get another, and the employer is willing that they should decide it between themselves, that he should be made to bear the burden and the loss? *A. I do not think that it is right that he should be made to bear the burden and the loss. It is regrettable.*"

The jurisdictional dispute between the plumbers and the steamfitters upon a $30,000,000 power house at Hell Gate being built by the City was drawn to Mr. Gompers' attention. He said that the president of the International of which both local unions were members had rendered decision in the matter, but acknowledged that the president had nothing to do with the enforcing of his decision and that the American Federation of Labor was without power to enforce it. The testimony continued:

"Q. There being this jurisdictional dispute between the two unions, and there being no authority within the unions or within organized labor that can function so as to enforce a settlement of that dispute, do you want us to understand that you would not approve of any interference by the courts to protect that contractor against the consequences of that jurisdictional dispute between the Unions? *A. I hold that the courts could not compel these men to work.*

"Q. Won't you answer my question? Do you think there should be no right of redress to the courts? *A. I say that there is no—*

"Q. Won't you answer me? *A. I think that the courts should not be given that power.*

"Q. Do you think then that in such a case that man should be entirely without redress? *A. The man—*

"Q. Won't you answer me? *A. That is not the alternative.*

"Q. Has he any redress? *A. I do not know.*

"Q. If he has no redress, you think he should be without redress? *A. From the courts?*

"Q. Without any redress—if he has none, do you think he should remain without redress? It is a plain question. You can answer it yes or no. *A. May I have the question repeated?*

"Q. (Question repeated). *A. That is one of the risks of the industry.*

"Q. (Question repeated). *A. I do not see where he can have any redress.*

"Q. Do you think he should remain without redress? *A. Yes, sir, rather than—*

"Q. I am going to ask you the next question. Don't you think that in such a case the courts should have the right to give him redress? *A. The courts cannot give him any redress.*

"Q. Don't you think they ought to have the right to make the try? *A. No, sir.*"

Counsel referred to the story of two men who had been expelled from Carpenters' Union Local 1456 for assuming to criticize the activities of Brindell who is now in the State's prison for extortion. The testimony continued: (p. 6798)

"Q. You heard their story, the story of how one of them had to go to Mexico to get work, and how they had been kept and were being kept out of the union, you heard those stories? *A. Yes, sir.*

"Q. And you know that they have no redress today, as the law stands, do you not? *A. Redress in the courts?*

"Q. Redress anywhere? *A. Not at this moment.* * * *

"Q. And until the labor movement is so far advanced in its evolution toward perfection that that redress is available to men situated as these men are, you would not countenance, or you would not approve of the courts of justice giving them any redress, or giving the power to the courts of justice to do so? *A. I should be opposed to it.*

"Q. You would rather see them go without redress? *A. I would rather see them go without redress than to submit the decision of matters of this character to the courts.*

"Q. You also heard, did you not, those two young men, one of whom had been a plumber's apprentice four years and a half and the other for five and a half years, tell of their efforts to become journeymen plumbers, did you? *A. Yes, sir.*

"Q. And you would disapprove, would you not, of any relief for them except through the union? *A. Yes, sir. That is, not through the courts.* * * *

"Q. Then as I understand you, you would prefer to see them go without any redress until they can get redress from the Union? *A. Yes, sir.* * * *

"Q. Would it be true no matter to what extent the abuse might go? *A. Yes, sir.*"

Again:

"Q. Are you aware of the fact that in the plumbers' union since October, 1920, the books have been closed so that no members could be admitted in the City of New York except as to a son or brother of members? *A. I have been so informed.*

"Q. Don't you think that is a gross abuse, a serious one that requires correction? *A. Correction by the union, yes sir.*

"Q. But suppose the union won't correct it, then what would you do? *A. Wait and try and improve their minds to do the right thing.*"

The counsel then referred to the restrictions upon employment maintained by the electrical workers. The record shows: (p. 6802)

"Q. It appears that whilst there are from twelve to fifteen thousand electrical workers in New York, the electrical workers' union confined its membership to 3,800 workers, and that during the great activity in business they would not admit more workers, but they would issue so-called permit cards to men who wanted to work with a union card at $2.50 a week each, which yielded a revenue of about $150,000 in the course of a little over two years; would you approve of that sort of performance? *A. No, sir; on the contrary, I have opposed it wherever I knew it to exist and tried to have it eliminated.*

"Q. But there is no power that can compel the local union to eliminate it, is there, as things stand today? *A. No, sir.*

"Q. There is none? *A. There is none.*

"Q. And yet do you stand for the proposition that you would have no power given to any public regulatory, administrative, or judicial body, to redress that wrong? *A. Yes, sir.*"

Referring to the several abuses which had been drawn to Mr. Gompers' attention, the testimony continued: (p. 6803),

"Q. Suppose the Legislature were to give a right of action to any man who was injured by this abusive, these abusive and autocratic measures which you yourself condemn, and he had a right of action against that Union and its members for the damages he had suffered; don't you

think that would give redress? *A. I think not.*

"Q. Would you be opposed to a man thus injured having that remedy given him by the Legislature? *A. Yes.*

"Q. Why do you say it would not be a form of redress to the man thus injured if he could sue the Union and members for damages for such action—why do you say that would not give him any redress? *A. There isn't anything easier than for a voluntary body to dissolve.*

"Q. Then you think the Union could dissolve and escape its liability, do you; is that what you mean? *A. I say a voluntary body can dissolve.*"

Referring to the laxity of the financial affairs of the unions in the building trades the testimony continued: (p. 6806),

"Q. It appears here that some of these Unions keep no books, no accounts of receipts; that their officers take in dues in cash, dispose of them, and that there is no accounting. There is no relief from that unless the Union chooses otherwise, is there? *A. Until the Labor movement—*

"Q. I mean there is no relief now. We are not talking about the dim future and the Labor movement; we are talking about existing conditions. *A. Yes.* * * *

"Q. Take a case in which the officers steal the funds of the Union, and there are no books to show, and no way of proving that they steal, don't you think that the Legislature should regulate those associations to the extent of requiring that they should keep books of accounts of their receipts and expenditures in the interest of common honesty? *A. I think that the Legislature should not interfere in the matter at all, regrettable and bad as the condition may be.*"

Mr. Gompers suggested the distinction existing in his mind between the rights of organizations of labor and all other combinations in the following colloquy: (p. 6808),

"Q. There are Trade organizations of employers, you know. *A. Do you make the same comparison then between an organization of employers, who deal with products—*

"Q. Don't you know that the laws are applicable to Trade organizations of employers? *A. Yes, sir.*

"Q. But you would not have the same law of supervision, visitation, and review applicable to one class of associations that is applicable to the others? *A. After I answer this question, may I make some explanation upon it?*

"Q. Yes, make any you please. *A. I mean right immediately after it?*

"Q. Immediately after; wouldn't you have the same thing apply? *A. No; the manufacturers' associations, or contractors, or organizations of that character, what you call trade organizations, are dealing with material things. The organizations of the working people deal with themselves; they are humans, their own being, their life; they cannot come under the same category and—*

"Q. But is there anything more material about the manufactured product than there is as to the labor which creates the product? *A. You can make regulations, laws governing the use, the abuse of the corporations in material products, but when you deal with workmen, with the same law applying to workmen, you deal with humans, not with products, but with humans.*

"Q. Is that any reason why the humans should not be responsible to the law for the injuries they do one another? *A. Such as—*

"Q. Is that any reason? *A. Well, the wrong they do to one another in the matter of the exercise of their judgment or action—*

"Q. No, where they do confessedly a wrong thing, an oppressive thing, a vicious thing, to their own people, don't you think the law should step in and give redress? *A. No, sir.*"

Again:

"Q. Would you oppose legislation to the following effect: The Constitution, By-laws, Rules, Regulations and Practice of every unincorporated association, whether it be a labor union or an employers' association or what-not, shall be subject to the visitation and review of the court, and the correction of any such provisions in those constitutions, by-laws, or in any rules, practices and regulations that are contrary to the public interest and that inflict injury upon private individuals? The question is whether you would object to such a provision in legislation? *A. Yes.*"

The testimony then came to the question of violation of wage scales determined by contract and continued: (p. 6820),

"Q. If all the trade unions in New York engaged in the Building Trades agree with all the employers engaged in the building trades that the rate of wages for a plasterer for the year should be nine dollars it would be a gross breach of contract for the employers, because of a depression in business to try to get them to work for eight dollars, wouldn't it? *A. Yes, sir.*

"Q. Wouldn't it be an equal breach of contract on the part of the union and its members to take advantage of an activity to try to get ten or twelve dollars in the face of its contract to work for nine dollars? *A. No.*"

After some sparring with counsel Mr. Gompers arrived at the explanation of this one sided view of wage contracts:

"Q. Where is the mutuality, if the employer is bound to pay the same rate, even if he can get men for less, and the employe is not bound? *A. Now you have given me an opportunity to make the explanation.*

"Q. —and the employe is not bound to work for the same scale, if he can get more, notwithstanding the contract, where is the mutuality of the contract? *A. The contract is based upon a minimum wage, not a maximum.*"

This theory is, however, slightly modified by the witness later:

"Q. Now how is it possible for anyone to go into the building business and expect to succeed without stability in wages during that particular item of construction? Don't you see it is absolutely essential to any legitimate building that there should be stability in wages? *A. Approximate stability in wages: fixed wages, no.* * * *

"Q. Of course as soon as you depart from the agreement on wages as to stability, how can you determine how far they are going? *A. The men have not demanded an increase in their wages, it has been a matter of competition between contractors or builders, between operations of competing for men.*

"Q. Do you think that should be approved by the Union, or disapproved? *A. They do not approve it, they simply—*

"Q. Do you not think it should be stopped? *A. No.*

"Q. You think the Union should allow it to go on, do you? *A. I think that it should not be stopped.*

"Q. Do you think that when the Bricklayers Union has entered into a contract with an employers association, representing all the employers, for $10 a day wages for bricklayers, the Union should permit its members to take $14 a day in competition that ensues? *A. Offered by the employers, yes sir.*

"Q. Yes, offered by the employers? *A. Yes, sir.*

"Q. And you think the plasterers, when they are contracted for $9 or $10 a day, the Union should allow them to take $18, or anything they can get? *A. Anything the employers will offer in improved wages and conditions.*

"Q. Now suppose there is a depression in building, do you think the Unions should permit the men to work below the agreed rate of wages as fixed by the contract? *A. Not if they can help it.* * * *

"Q. If they (the unions) discipline the men for breaking the scale below the fixed rate, why should not they discipline them for breaking the scale above the fixed rate? *A. Because that is a development of human aspiration, to get more out of life.*"

Having explained to the witness that a contract fixing wages could be enforced against the employer, Mr. Gompers was asked why it should not be enforced against the union. The testimony reads:

"Q. Why shouldn't the employer have the same right to enforce a contract of that kind against the union? *A. Because one is an organization dealing with material things, inanimate: and the other is dealing with human beings.*

"Q. Is that the reason that the other should not carry out its part of the bargain? *A. No.*

"Q. Is that any reason why it should not be enforced against him? *A. Yes, sir.*

"Q. It is? *A. Yes, sir.*

"Q. Then what is the good of a contract if it cannot be enforced? *A. Because time develops self-discipline.*"

Again:

"Q. They (the members of a union) ought to be able to flaunt the contract and disregard it just as they please? *A. I did not say that.*

"Q. Is not that a flaunting of the contract, if they simply stop in the middle of a job and demand a thirty percent increase? *A. Well, flaunting is disregarding the contract.*

"Q. And you say that there ought to be no remedy? *A. Not by law.*

"Q. Where are you going to get the remedy? *A. By the organized labor movement.*

"Q. But there is no such remedy now, is there? *A. But there is constantly growing improvement.*

"Q. But there is no such remedy now. Never mind what is growing. There is no such remedy now, is there? *A. There is no remedy now.*"

Coming to a discussion of the practice of labor unions in summoning employers before them and fining them, the testimony reads: (p. 6843),

"Q. Ever heard of Labor Unions ordering employers, summoning them before their Executive Boards and Committees? *A. Yes, sir.*

"Q. And imposing fines upon them and making the payment of those fines a condition upon which the men would continue to work? *A. Yes, sir.*

"Q. You have heard of that? *A. Yes, sir*

"Q. You approve of it? *A. Under certain circumstances.*

"Q. You think the Unions should take jurisdiction over employers and try them and fine them? *A. Not taking jurisdiction over them but to discuss with them—*

"Q. We are not talking about discussing with them; I am talking about summoning them before Executive Boards of the Union and compelling them to pay fines as big as $1,000? *A. For violation of the terms of a contract.*

"Q. No, not for violating a contract, but for alleged infringement of Union regulations. Those are things of which you approve? *A. No, I didn't say that either.*

"Q. You didn't know they were doing that? *A. I knew some of them were doing it.*

"Q. Did you know that in the Plasterers' Union where their own men did an inferior job of work against the protest of the employer, that they would send for the employer and fine the employer for that work and make him pay for doing it over again and not fine the

men who did the work; did you know that? *A. No.*

"Q. That was proven here before this Committee by the men themselves; you would not approve of that, would you? *A. No.*

"Q. What would you think of a resolution of the Plasterers' Union that fined an employer for not obeying the summons of the Union to attend at a meeting upon the demand of a delegate. *A. I think it unwarranted.*

"Q. It seems rather queer, doesn't it? *A. Yes.*

"Q. It seems rather queer to you? *A. Yes.*

"Q. That is one of the things that appear here from the minutes. You don't think the Plasterers' Union needs any regulation, do you? *A. Not by the state.*

"Q. Nor by this Committee? *A. By this Committee—I am perfectly willing that the Committee might help—*

"Q. In cleaning it up? *A. —Help us in cleaning it up within our own ranks.*

"Q. Well, we have tried to, Mr. Gompers, in the interest of organized labor, and we have asked them to reform some of these practices, and they have promised to do so, but they have broken their promises. What would you do in such a case? Would you recommend legislation? *A. No, you could not compel them, even if you tried to.*

"Q. You are mistaken. Don't you understand if we had legislation the employers would have a remedy in the courts against the members of the union for these unwarranted acts, for damages. That is the way to compel them, not by putting them in jail, but by holding them to the ordinary obligations that other individuals are held to. *A. But supposing they could not respond?*

"Q. Well, that would be like every other insolvent matter. *A. They would go to jail.*

"Q. No, they would not go to jail, there would be a judgment against them. But don't you think they should have a remedy? *A. Not by the state."*

After discussing some of the evil practices assisted in by the plasterers in New York City and especially the practice of requiring models to be destroyed so that they cannot be used for casts in more than one building, the testimony continued: (p. 6851),

"Q. Those models in which those casts are made cost considerable money. There is a regulation to the effect that the models cannot be used by the contractor who makes them for any other job, because otherwise there might not be enough work for these modellers? *A. Did I understand you to say that the models are made by the plasterers?*

"Q. Yes; they are made by what they call the modellers, who are members of the plasterers' union. There are only sixty-five such modellers in New York. *A. I have been told in regard to the making of the models that it is the employers who hire these men to make models, and that the cause of the breaking of the models or the refusal to use the models upon another job, is at the demand of the employers who hire those men who make the models.*

"Q. You have been told something that is contrary to the evidence of the modellers themselves on the stand and the plasterers on the stand. I am discussing the evidence before the Committee under oath. Could you see any justification for the requirement that these models should be destroyed and not used on another job, when they are quite available and useful for another job? *A. Except possibly that like a lady who wants a novelty in her dress—*

"Q. What has the plasterer to do with that? *A. He may have to pay for his wife's.*

"Q. You mean that he may get more dresses for her if he smashes the models? *A. Probably.*

"Q. That you think is perfectly justifiable? *A. Decidedly not.*

"Q. It is decidedly wrong and a burden on building that is unnecessary? *A. It is a wrong practice.*

"Q. Those are some of the practices, Mr. Gompers; and there are a few more that these gentlemen have promised to reform, and have not reformed, in that particular union; and that being so you would let them severely alone, would you not? You would not try to enforce the performance of those promises? *A. I would try in every way I could, and I know that my associates in the labor movement, particularly the executive council and the conventions, and in the publication of our literature, we have urged a greater consideration in decent conduct among men.*

"Q. And whilst you have been engaged in this moral uplift among your men, are you aware that these practices, most of them, are of recent origin, many of them since 1919, and that they have been steadily growing? *A. I know that there have been some of them in vogue in recent times."*

Counsel drew attention to the fact that in the erection of the Ambassador Hotel in New York, the owner had mantels made of Keene's cement which enables the affixing of the mantel to the building at less cost than by other methods. The plasterers compelled the builder to destroy these mantels and substitute others to be attached by a more costly method. The testimony continued: (p. 6858),

"Q. Don't you think that if such a practice is indulged in under resolution of the Union, that the employer who suffered that loss should have a remedy in damages against the Union for the one hundred and odd mantels that he lost in that way? *A. No.*

"Q. You think he should have no remedy whatever? *A. Not by a recourse to any new law.*

"Q. Where should the remedy be, what remedy should he have? *A. He has none. That is the risk of the industry."*

Referring to these abuses in the building trades, the record shows: (p. 6859),

"Q. Do you think it is in the interests of organized labor that these abuses should be allowed to continue unchecked? *A. Yes.*

"Q. Don't you see it is greatly against its interests? *A. Yes.*

"Q. Don't you believe that the dignity of organized labor and its status would be greatly improved if a remedy were given for these acts? *A. Yes, within the Labor movement.*

"Q. But suppose a Labor movement does not seem to have the power to give the remedy, don't you believe that organized Labor would gain greatly if these acts could be made the subject of legal regulations? *A. No, sir; on the contrary."*

Counsel referring to the record advised the witness that the Executive Committee of the Plasterers' Union had compelled the owner of the Ambassador Hotel to tear down part of a wall because the delegate, a plasterer by trade, did not approve the color and style in the imitation of Travatine marble from an artistic point of view, although it was entirely satisfactory to the owner and the architect. The testimony reads: (p. 6861),

"Q. But what would you do about it? The owner has had to tear down the walls and he has had to do the thing in a different style to meet the view of that gentleman, Mr. Pearl, I think his name is. Don't you think there ought to be some right lodged somewhere to that owner to get damages for the action of the Executive Committee? *A. I think not."*

A moment later Mr. Gompers stated that he did not believe that this took place. Reminded that the statement that it did take place was evidenced by the minutes of the Executive Committee of the Union itself, Mr. Gompers admitted that it could not be defended. The testimony continued:

"Q. I know, but why shouldn't you be in favor, as a just man, of giving a remedy to the man who has suffered damages by that act? That is what I mean to ask you. How you can sit there and not boil over with indignation and resentment, and have your sense of justice come to the surface, so that you will join with us in asking relief against oppression of that kind? *A. Well, I don't often explode with indignation. I have tried to control myself as best I can.*

"Q. Assuming that you won't explode and we cannot bring you to that point, don't you think we can bring you to the point, Mr. Gompers, at which you will agree with us that there should be a legal remedy for such a wanton act? *A. I think not."*

As to whether an employe who told the truth in a cause between an employer and a union to the injury of the union, the testimony shows: (p. 6864).

"Q. Suppose an employer begins a suit to enjoin a labor union in connection with a transaction in which the employer thinks he is in the right and the union is in the wrong, and one of the members of the union makes an affidavit on request as to the facts as he understands them; do you think that is the proper subject of a fine being imposed against that member? *A. If it is done, if the affidavit is made to help the employer in his contention against the union, I think it is wrong.*

"Q. But suppose the employe is telling the truth. *A. That may be.*

"Q. You don't think he should assist in the administration of justice by telling the truth? *A. I do not think he should assist the employer in a contention with the Union of his trade or calling."*

Mr. Gompers was asked what he thought of the resolution of a labor union fining every member $20 who attended a baseball game of any of the associations with which Judge Landis is identified, because of his award in the building trades dispute. Mr. Gompers said that it was pretty far fetched, but that his information was that no such resolution had passed. Asked if he regarded the resolution as a fiction, he answered, "Yes." The testimony continued: (p. 6868),

"Q. All pure fiction? Well, is the fining of Germans and Danes and others for working on St. Patrick's Day also fiction? *A. I think not. My information is that it was done."*

Concerning the use of improved machinery and methods of doing work, the testimony reads: (p. 6877),

"Q. Are you qualified to answer whether the plumber should have a regulation that prevents fittings being put upon plumbing materials by power machinery where it can be done for a fraction of the cost, and insist upon its being done by hand at the job? *A. I think that is a mistaken policy.*

"Q. But you do not think there ought to be any relief from it? *A. Not by the state.*

"Q. Where is the relief going to come from? *A. From the organized labor movement itself."*

As to the correction of these abuses which the counsel and the witness had been discussing, the testimony continued: (p. 6877),

"Q. You leave every abuse to correction by the people who are practicing it, don't you? *A. No.*

"Q. Each one of these abuses should not be abated by anybody except the people who are practicing them

for their own profit and their own aggrandizement? *A. If that be so you cannot remedy it in any way other than by the labor organization.*

"Q. I want to know what particular abuses you propose to remedy except by the people who are practicing them? *A. By the men of labor without regard to the fact of those who are practicing this abuse, as you call it.*

"Q. But the men of labor have no jurisdiction to correct these abuses in the local union. *A. Let me state, Mr. Untermyer, you cannot bring the American workman into a legal straightjacket.*

"Q. That is a figure of speech. I am not more anxious to put them into a straightjacket than you are. I am anxious to see that these palpable abuses are abated, so that organized labor will be stronger. *A. Well, it won't be stronger."*

Again:

"Q. In the Plumbers' Union these various abuses were agreed to be corrected, Mr. Gompers, agreed by the officers to be corrected, agreed by the Building Trades Council to be abated, and it has done the best it could towards securing that direction, but in the Plumbers' Union they have formally rescinded their resolution to abate these abuses, which they had previously agreed to. Under these circumstances, is there anything left for this Committee except to recommend that there should be such regulation as will enforce such reforms as may be found necessary. *A. Yes, sir.*

"Q. What is there? *A. The recognition of the fact that this is a struggle, a struggle of the working people of our state and of our country for improved conditions.*
* * *

"Q. The point about it is the Plumbers having agreed to these nineteen points and then having passed a resolution rescinding and repudiating their agreement, you say that you do not think even under those circumstances that this Committee ought to suggest to the Legislature the propriety of finding some way of modifying these abuses, is that right? *A. By law or by governmental agency, yes, sir.*

"Q. By legislation? *A. By legislation, yes, sir.*

"Q. You object to it? *A. Not only object to it, protest against it.* * * *

"Q. What would you do to remedy it, having tried with the Union to remedy it and having failed? *A. These things will be regulated by the organizations and remedied.*

"Q. But don't you see they are not being remedied even after they promised? *A. The world was not made in a day.*

"Q. After they promised to regulate them and we tried to get along with them on that basis and didn't make any recommendations to the Legislature, although this thing happened last Autumn, they repudiated their regulations? don't you think the Committee should do something? *A. Yes, report the facts.*

"Q. Report the facts with recommendations or without them? *A. Without recommendations of statutory relief or regulations of the character to which you refer.*

"Q. What sort of regulations would you suggest that we make? *A. Patience——*

"Q. That we recommend patience—you don't think it is necessary for the State to spend all that money to regulate patience, do you? *A. It may have been that this has been in the interest of the public——*

"Q. Don't you think we have been patient when we got them to consent and we had their agreement and then we failed to make recommendations to the Legislature and then find that the agreement is not carried out; do you think we have been wanting in patience? *A. If I may be permitted to finish I will answer. To have patience and bear with the ills we have rather than fly to others we know not of. You may call this a speech, what I said before, but I repeat it without saying it and with emphasis. I won't repeat it, but it is a fact, these evils which arise in the struggle have some fundamental cause, some origin, some origin for the rectification of a wrong that the employers have imposed upon the men."*

Mr. Gompers Is Mistaken in Refusing Help to Do What He Has Been Unable to Do.

That the activities of trade unions, no matter what they may be, should not be subject to review by the courts or subject to limitation by statutes, has always been the contention of Mr. Gompers. His editorials in the *Federationist* and his speeches on many occasions set forth this contention. But he has not often been forced to face the fact that many powerful combinations of labor are engaged in practices which he himself admits are indefensible and for which there is at present no adequate remedy. Yet, while admitting that these indefensible practices inflict grievous injury upon society and even upon union workmen, he impunes the fairness of society and denies its right to apply its remedy. He demands that the correction of these abuses be left to the very organizations of whose activities they are familiar incidents.

There can be no peace among men where the privileges of some are enhanced at the expense of the rights of others. If it is so that the privileges of employers exist at the expense of the rights of workers, as contended by Mr. Gompers, there can not be peace in the employment relation until that situation is corrected. If trade unions engage in indefensible practices—practices which necessarily enhance their power at the expense of workers and employers and the public—there can be no peace until that situation is corrected.

Since the dawn of organized society, the principle has been enunciated by statesmen and philosophers, by merchants, traders and workmen that the only hope of the maintenance of peace is to bring all elements of society under the control of the law,—the law interpreted and applied by the magistrates of the people. Any element in society which resents and defies the power of the state and the courts to punish it when it deserves punishment, or to restrain it when it deserves to be restrained, is an element making for disorder and warfare. Upon such an element existing within the body politic, but refusing to live within the social order, the virtues of patience, hope and sympathy to which Mr. Gompers appeals, have no effect. Sentimentality of all kinds has been expended upon the outlaw, but in all history the only thing which has brought him to his senses and saved the community against his excesses is the iron hand of the law.

Mr. Gompers says that he has used his good offices, and so has the Executive Committee of the American Federation of Labor, to stop the practices which he admits exist. Yet the record shows, and Mr. Gompers must agree, that these evil practices have grown in audacity and viciousness in recent years. If left to themselves, these evils, like other evils, will run their course and abate only upon the exhaustion of the victims. The true student of human nature knows that self correction will not take place in the case of a labor monopoly which is not subjected to either moral or legal restraint. Human power does not take down and buckle on its own bridle.

The moral forces which are available to men are only available when they are in honest and law-abiding contact with their fellowmen. The moral forces available to the labor movement must in the nature of things be beyond their reach while they choose to have the wrongdoers in their midst remain irresponsible to society for their conduct. If the better element in unions is to get rid of the worst element in unions, it needs the power of the law to help it. It is a pitiful thing to see the organized workers of the country, in search of what Mr. Gompers calls their aspirations, under the leadership of one who would keep them in the wilderness of irresponsibility and lawlessness rather than one who would lead them into frank and lawful contact with their fellowmen.

Mr. Gompers resumed his testimony before the Committee of the New York Legislature investigating housing conditions (Lockwood Committee) on May 4th. Mr. Untermyer, counsel for the Committee, renewed his efforts to secure from the veteran leader of the American Federation of Labor some practical suggestions for the immediate suppression of abusive practices by the labor unions, but without avail. Mr. Gompers insisted that society through its agencies, the legislatures and the courts, should not be permitted to try to suppress these abuses, but that it must abide the moral evolution of the trade union movement. (Pages 7074 to 7200 of the record.)

Mr. Gompers was invited to make an explanation of anything he had said at his previous examination before the Committee. He stated that many disputes in the building trades might be avoided if the building contractors would accept the awards of the National Board for Jurisdictional Awards, a voluntary organization created in 1919 by the Building Trades Department of the American Federation of Labor and national societies of engineers, contractors and architects to arbitrate jurisdictional disputes. The witness stated that the contractors in New York had never permited it to function in New York, but he also admitted that the Building Trades Council had never expressed itself as ready to accept the awards of this Board. It was pointed out to the witness that in the jurisdictional dispute between the plumbers and the steamfitters over work to be done in the Hell Gate Power House, being built by the City of New York, that the plumbers refused to submit the dispute to any sort of arbitration. The testimony continued: (p. 7082)

"Q. How could any National Board of Jurisdictional Award function in such a case? *A. It can——*

"Q. You could not compel the plumbers to go into that award, could you? *A. No, sir, and I would not have them compelled.*

"Q. I understand; but since you would not have them compelled, since the International has no power to compel them, and since they insisted on striking, and refused to arbitrate, how could your national Board of Jurisdictional Award relieve that situation? *A. A decision, or first, an investigation by the Jurisdictional Board and the rendition of an award would carry with it such an influence that I have not any doubt that the local plumbers union would have abided and yielded to the investigation, abided by the award.*

"Q. Have you any reason for saying that they would? *A. I express my belief, sir.*

"Q. Have you any reason from personal contact or from assurances of the officers of that local union for saying that they would? *A. No.*"

The attention of the witness was drawn to the expulsion of the Building Trades Council of New York by the Building Trades Department of the A. F. of L. The record continues:

"Q. That has arisen from a jurisdictional dispute, too, has it not, between the D'Allessandro Union and the D'Aguardia Union? *A. Yes, sir.*

"Q. As I understand it, the Building Trades Department of the American Federation of Labor wants the D'Allessandro Union recognized in New York, and not the D'Aguardia Union? *A. Yes, sir.*

"Q. And isn't it a fact that the D'Aguardia Union has about fifteen thousand members in Greater New York, and the D'Alessandro Union about twelve hundred members? *A. I don't know that, sir.*

"Q. Can you imagine what would happen in New York if the Building Trades Council were to repudiate and cast out the fifteen thousand men representing the laborers in the D'Aguardia Union and were to have only twelve hundred members to take their places in that D'Alessandro Union? *A. You ask for my imagination?*"

After some inquiries concerning the witness's imagination, the testimony continued: (p. 7087)

"Q. What in your judgment would be the effect of such action? *A. For a time it might be hurtful.*

"Q. For how much time? *A. Probably a day—a week.*

"Q. Do you mean to say that where building is active in a community like New York, where the entire Building Trade is unionized like in New York, that if the Building Trades had to cast off fifteen thousand workers, and could only find twelve hundred in an association that had the privilege of working with union men, that that confusion and interruption would last a day? *A. I think that the men in this rival body outside of the bona fide labor movement would soon yield to the pressure or persuasion of the other trades in the building trades.*

"Q. You speak of the pressure? *A. Yes, sir.*

"Q. You mean that if the 15,000 men thus cast out were not permitted to work with union men, that they would be forced into a union that would be recognized; is that what you mean? *A. I think they would go over into the union with force—call it force or moral suasion, or whatever you please.*

"Q. Do you call it moral suasion if a man has to desert the union in which he is, to go to another in order to get work? *A. If he has become a member of a union which is not considered as bona fide in the whole industry, and the organizations of the country, I think that that is perfectly proper.*

"Q. You do? *A. Yes, sir.*

"Q. So you don't think that is force, but that is what you call moral pressure? *A. Yes, sir.*

"Q. That does not partake of physical pressure to drive him out of that union into another unless he makes the change? *A. I do not understand the purpose of your question, sir.*

"Q. It is not necessary, it is only necessary, Mr. Gompers, to understand the question. *A. Then I must answer that the imputation of physical force is not that which I have in mind or endorse; on the contrary, I oppose it.*

"Q. Don't you think that where a man has the alternative between not getting any work and being unable to support his family if he stays in that union, and being able to get work if he goes into another, that his going into another under those circumstances is something more than moral pressure? *A. Hardly.*"

As to the necessity for organization of trade unions in "regularity with the policy," Mr. Gompers testified: (p. 7089).

"Q. Must a labor union have a charter from an international body? *A. Not necessarily.*

"Q. May it not be independent? *A. It may, if it can live.*

"Q. The D'Aguardia union seems to be living, doesn't it? *A. It is.*

"Q. Why should you suspend this building trades council from the American Federation of Labor for recognizing a union that has 15,000 men as against a union that you want recognized in its place that has 1,200 men? *A. There is a matter of regularity.*

"Q. What regularity? *A. Regularity with a policy, the plan of organization among the working people as trades unions and as labor unions.*

"Q. Is it irregular for a union of bona fide workmen of 15,000 members to be independent of any national body? *A. It is perfectly legal and lawful for them to do it, but that applies equally to the I. W. W. or any organization of that character, if they have 10,000 or 12,000.*

"Q. You don't imply that the D'Aguardia Union members are of the I. W. W. character, do you? *A. No, but the principle is the same.* * * *

"Q. Now what is the real reason for suspending a building trades council that has within its membership something like 115,000 men, union men, in the City of New York, from the American Federation of Labor, because it will not substitute, will not cast out the D'Aguardia union and substitute the D'Alessandro Union? *A. All I can say is I do not know any other reason than that the, as you call it, D'Alessandro Union is the bona fide union of that trade or calling affiliated to its International Union, and the other is not affiliated to any international union.*

"Q. Is it then because this large union is not affiliated with an international whilst the D'Alessandro Union is affiliated with an international, that you have suspended the Building Trades Council for not casting out the D'Aguardia Union? *A. I repeat I did not suspend it.*

"Q. That the Building Trades Department has suspended. *A. I understand that to be the fact.*

"Q. And yet you recognize, do you not, the right of a local union to exist without being a member of an International? *A. Yes.*

"Q. Then why should you suspend the council for having that local union as a member, when it has fifteen times the membership of the other? *A. That does not alter the principle.*

"Q. But where is there any principle involved; is it a principle that a local union must belong to an International? *A. Make every effort and use every lawful means for the purpose of bringing about unity among the working people of any particular trade throughout the whole country.* * * *

"Q. If a local union must be crushed, driven out, because it does not become a member of the International Union, in order that there shall be substituted a local that is a member of an International Union, what liberty is there left to a local union? *A. It has the liberty to exist if it can and so desires.*

"Q. You mean it has a liberty to exist if it can fight organized labor? *A. If it can exist.*

"Q. It has to fight organized labor, hasn't it? *A. Sir?* * * *

"Q. Then I ask my question again. The purpose of the Building Trades Department then is to destroy that union, isn't it? *A. Or to have the local union become part of the International.*

"Q. Well, that is destroying it, isn't it? *A. No, sir.*

"Q. You don't mean to say that the D'Aguardia Union could be admitted to the International? *A. I think so.*

"Q. Even with the D'Alessandro Union there? *A. I think so.*

"Q. Are you willing to commit the American Federation of Labor to that proposition that they will take the D'Aguardia Union? *A. I can't guarantee anything.*"

Mr. Gompers was asked if he did not realize that in order to do away with the profiteering landlord, and the abnormally high rents, unity and peace in the labor movement, so far as they were connected with the work of constructing houses, were essential. Mr. Gompers said that he did not realize it and gave as his reason the fact that, although since 1917 there had been approximately only 10 per cent. increase in the construction in New York, exorbitant rents and profiteering had been practised on the structures built before 1917. A moment later, however, he admitted that if the situation was to be bettered there must be peace among the workers and he offered to assist in bringing jurisdictional disputes to a close.

Mr. Gompers' secretary then read article 9 of the constitution of the National Board for Jurisdictional Awards under which the organizations signatory to the agreement establishing the Board undertake to take no part in sympathetic strikes and to secure compliance by their members with the awards or to suspend members refusing to comply. The testimony continued: (p. 7101)

Q. Now, Mr. Gompers, I am very glad to hear that provision read. As I understand it, that provision gives the International the right to suspend the plumbers union for having engaged in a strike pending the determination of this jurisdictional question, does it not? *A. Yes, sir.*

"Q. Why hasn't it suspended the plumbers union? *A. I cannot tell you, sir, I don't know.*

"Q. Do you know the plumbers union has been six months on strike over this jurisdictional question? *A. Several months, I know.*

"Q. And that millions of dollars worth of public work has been held up in the meantime? *A. I am so told.*

"Q. What is the use of these elaborate provisions if they are ineffective? *A. They are effective generally.*

"Q. But they are not effective here, are they? *A. No, in this instance it is not effective.*

"Q. Why, are the plumbers too strong? *A. The laws, the agreements have not been able to function in this one instance. Generally it does.*

"Q. Is that because the local union is too strong and does not care anything about the International? *A. I think not, sir.*

"Q. Why does not the International exercise its power? *A. I cannot tell you.*"

Mr. Gompers offered an explanation of his testimony at his previous hearing as to his objection to the power of the courts to entertain causes involving the rights of trade unions: the testimony reads: (p. 7105)

"Q. What is the next subject on which you desire to offer an explanation, Mr. Gompers? *A. In my testimony I stated that I objected to the courts being given jurisdiction to regulate the affairs of the organizations of the working people, and predicated that statement in part upon the fact that the courts have already gone so far in deciding or interpreting laws affecting the relations and affairs of workmen and the relations of workmen to employers, and usually of such a hostile character have been their decisions and interpretations of law that I would be opposed, am opposed, to granting further jurisdiction of further power to the courts in regard to the affairs of the organizations of workers and the relations*

between workers and employers. There is now in existence not less than fifty detective agencies throughout America, and their principal business with thousands and thousands of operatives in their employ whose sole purpose is one to arouse controversy between the employes and employers, to ascertain whether there be any dissatisfaction among the employes, and who desire some better condition, and who report them to the employers, when there is any matter of a character that has aroused the resentment of employes in any kind of an organization. If that be not possible, to join one or more of the agents into such a union and act as the spy, the reporter, and what the French call the agent provacateur; and there have not been many instances in which there has been any controversy but that the employers' agent, the detective in the Union, has been the most radical in his utterances against the employer, to prematurely strike, to bring about confusion, to excite them to do things in which he was a part, knowing that he would be immune. The job was put up against the poor devils, who did not know, and are duped.

"Q. And pray what on earth has that to do with the question of limiting the jurisdiction of the court? *A. There are not many unions in the United States which are free from just these detective agencies.*

"Q. What on earth has that to do with the court? *A. In inter-union or intra-union affairs either of these operators of the agencies could at any time bring any kind of a suit against the union, as has been done in the Tarfail case, in the Bucks' Stove case, in the Hatters' case.*

"Q. If a union is not doing any wrong what is the harm of all these detectives, although I agree with you that it is a vicious and vile practice, which we have endeavored in this Committee to expose and to exterminate? *A. There is no limit to the entanglement of the unions of labor in litigation.* * * *

"Q. Is that the only argument you have to advance apart from what you said at the last hearing as to why there should be no administrative or judicial review of or interference with any of the regulations or practices of a labor union? *A. 'Illegal,' do you say?*

"Q. What? *A. Do you say 'illegal' practices?*

"Q. No, abuses. (Question read.) *A. I have others.*

"Q. Won't you be good enough to specify them all so that we may have both sides of the question before the Committee in determining to what extent, if any, there shall be regulation? *A. The organizations of labor are voluntary organization; they are organized for the betterment of the condition of the life and work of the wage earner.*

"Q. You told us that at the last hearing? *A. May I——*

Q. Go on. *A. They are organized to secure legislation, relief in matters in which they cannot help themselves, legislation, both local, state, national, to improve the standards in that they are an organization of a mass—masses of men, and are likely to make mistakes, likely to err. They have the right to err, they have the right to make mistakes in their struggle for their protection and improvement.*

"Q. No matter how much it may injure the innocent third party or the public; is that right? *A. No, sir; you are not right.*

"Q. Is that your doctrine?. *A. You are not right.*

"Q. If they do err and make mistakes that injure the public and injure innocent third parties with whom they deal, is it your idea that there should be no relief for that? *A. Not by law.*

"Q. Where should the remedy lie? *A. The law should not provide a remedy.*

"Q. Where should the remedy lie? *A. By their own experience and sense of justice.*

"Q. Suppose they have none? *A. But they have.*

"Q. Let us assume they have not. *A. I cannot suppose anything of the kind.*

"Q. Suppose their sense of justice is blinded by their self-interest, that is not uncommon? *A. No; it is so general on the other side——*

"Q. It is general all over. Where the sense of justice is blinded by self-interest, and the public suffer, or private individuals suffer from their action, do you still adhere to the proposition that there shall be no regulation or relief, either by an administrative body that will eliminat. those abuses, or through the courts; do you still adhere to that? *A. Emphatically. As a matter of fact it would be no remedy.*

"Q. That you would have to leave to the lawyers, wouldn't you? *A. I am not so sure that we would.*

"Q. We discussed that to some extent the other day. You say there would be no remedy; but suppose this Committee could recommend a remedy, would you be in favor of its being enacted or against it? *A. I would be against it.*

"Q. So that the argument that there would be no remedy really does not touch the subject, does it? *A. By law——*

"Q. I am talking about remedy by law or by administrative process. *A. You could not do it without law.*

"Q. Suppose the Committee should find a remedy by administrative process, would you still be opposed to it? *A. I would unless it was voluntary.*

"Q. Of course, you do not need any process for voluntary things? *A. Yes, it does.*

"Q. Do you? *A. The American Federation of Labor tries its level best.*

"Q. That you call a process, do you? *A. Yes, sir; the best that can be devised."*

The function and powers of the Federal Trade Commission to restrain unfair practices in interstate commerce were explained to the witness. The power and duties of the Interstate Commerce Commission were also explained to him. Then the testimony continued (p 7112):

"Q. Now, suppose there were a commission that would simply be confined to the elimination of unfair trade practices in labor unions—do you understand? *A. Yes, I think I do.*

"Q. Applying the same principle that Congress has applied to industry in the Federal Trade Commission to labor, cannot you see how that would not affect the well-conducted trade union, but would simply tend to eliminate the abuses of those that were not well conducted, and it would raise the standard of organized labor and immensely help its situation? *A. On the contrary; first, the philosophy of the thing is wrong. Even the application of the Federal Trade Commission and the Interstate Commerce Commission, and to apply those same principles to labor—in other words, it is the assumption that commodities and labor are upon the same scale, under the same category.*

"Q. Don't you think the abuses in both of them should be corrected, whether they are on the same or a different scale? *A. Yes, sir.*

"Q. Don't you think the law which corrects the abuses in one should seek to correct the abuses in the other? *A. No."*

Admitting that labor is not a commodity, counsel endeavored to narrow the distinction between organization of persons and firms dealing in commodities and trade unions, for the purpose of determining the distinction to be made by law in dealing with abusive practices by either. The testimony continued: (p. 7113).

"Q. They (members of trade unions) come together to better their conditions? *A. And the condition of others.*

"Q. But primarily to better their own condition? *A. Yes, sir.*

'Q. It is quite as selfish in that respect as any other kind of association? *A. Hardly.*

"Q. When men get together to lift the prices of a commodity, they get together to benefit their competitors as well as themselves, don't they, in the same sense? *A. No, it isn't. They don't want to better the condition of their competitors, but in a labor union any piece of legislation which is secured for the protection of help, the life of the workers, applies to nonunion men as well as it does to union.*

"Q. No nonunion men share in the benefits of labor unions? *A. To a certain extent, but only those who know men and the history of labor understand.* * * *

"Q. Let's get back to the subject; when men go into a labor union, if it is a successful union, it generally results in their getting higher pay and less onerous hours of work, doesn't it? *A. Yes, sir, and relieving obnoxious conditions.*

"Q. It results in their getting better living conditions, more sanitary, and getting more pay, if it is successful, doesn't it? *A. Yes, sir.*

"Q. This idea of working less hours for more pay, is there anything mercenary in that? *A. No.*

"Q. Or is that humanitarian—purely for the man who comes in and gets the less work and more pay? *A. It is enlightening his mutual—it is enlightened mutual interest.*

"Q. It is enlightened selfishness, isn't it? *A. I said enlightened self-interest.*

"Q. We will call it enlightened selfishness. *A. If you care to characterize it that way.*

"Q. Don't you like that phrase? *A. No, I do not.*

"Q. It is selfishness? *A. I don't regard it as such.*

"Q. So that I understand you to say that when a man goes into a labor union to get less work and more pay, it is not selfishness? *A. I say it is enlightened self-interest.*

"Q. But you don't think it is selfishness? *A. Not in the sense in which that term is generally used.*

"Q. What could be more selfish than a man going into a union to get more pay and to do less work? *A. In that sense, yes.*

"Q. Now, we will agree this is enlightened selfishness. *A. Yes, that is enlightened selfishness.* * * *

"Q. Now, having agreed that the union is established from the point of view of enlightened selfishness and that the trade association to fix prices is also a form of enlightened selfishness, I do not understand, and I would like you to explain, why one should be above the law and the other should be regulated by and subjected to the law? *A. There is no analogy between a combination or association of men engaged in dealing in material product and the association of men who own no products and whose only means of a livelihood is an exercise of their labor power, part of themselves and which cannot be taken from them. The regulation of business as business, with the associations of persons dealing in the products of labor cannot be placed in the same category with the men who are associated for the purpose of protecting and promoting their only means of livelihood, their labor power, part of their very bodies and souls.*

"Q. Suppose they abuse that association and oppress their employers through their power, would you have any remedy whatever accorded the employer? *A. I would have a better understanding.* * * *

"Q. I understand you to say that if these abuses exist that have been pointed out, and hundreds of others that I might point out, some of which I will, you would still grant no relief, is that right? *A. Not by law.*

"Q. You would rely upon the evolution of the labor movement and its enlightenment to grant that relief, would you not? *A. Yes, guided by the success which have already attended the American labor movement in respect to these matters.*

"Q. And there you would leave it, with no remedy to the aggrieved people? *A. Not by the courts.*

"Q. And not by an administrative body? *A. By law, no.*

"Q. You would not support any kind of regulation, no matter how extreme might be the abuse? *A. Regulation by state or——*

"Q. Yes, by the state? *A. No.*

"Q. That means you would support no regulation whatever except by the unions that are committing the abuses? *A. No.*

"Q. Where would there be any redress for these abuses except through their correction by the unions by which the abuses are being perpetrated? *A. By the general labor movement.*

"Q. But you say none of these general labor movements have any compulsory power over a local. *A. And I would not——*

"Q. You would not give them any, would you? *A. I would not.*

"Q. Then why do you say that the general labor movement could do anything toward correcting these admitted abuses for which you will allow no other form of correction? *A. The influence of the American labor movement has been great in eliminating many of the abuses which have existed; it has not succeeded entirely.*

"Q. Are you not aware, Mr. Gompers, as a historical fact, that as the labor unions have grown in power the abuses have accumulated and increased? *A. In some instances, yes.*

"Q. But don't you know that that is the rule, a natural thing, that where the power gets stronger and stronger the abuses grow greater and greater? *A. In some instances, yes."*

Mr. Untermyer then turned to the situation in the Jewish Bakers' Union in New York. Citing one of the regulations enforced by this union against the employers the record shows: (p. 7122)

"Q. Well, what do you think of a regulation that allows the following form of arbitration under the agreement, and none other, that if a business agent of the union is unable to settle a dispute, the employer binds himself to appear before the executive council of the local union and submit to its decision? *A. That is not arbitration.*

"Q. I say that is the only kind of arbitration he gets under the agreement; you do not think that this is defensible, do you? *A. No.*

"Q. Do you think it is defensible to make an employer pay $10 for the privilege of signing a contract with the union? *A. I think it is absurd."*

Referring to the straits to which the master bakers have been brought by the exactions of the union the testimony continued:

"Q. All the big ones and all the little ones we had were on the stand. You do not know, as a matter of fact, that these men are union men one day and master bakers another, and they keep their union cards, so if they cannot eke out a living as master baker, they go back to the unions; that is the character of the employers, the bulk of them are? *A. I think that does them credit.*

"Q. I do not think they were asking for a certificate of character on the subject. We were only asking for the fact. That is the fact. *A. Well, that points——*

"Q. You know they go back because they can get more money as journeymen than they do as master bakers? *A. Why don't they all resign and become bakers, if that is so profitable?*

"Q. I say, because they have killed the trade so by their exactions, that the business has gone to the Gentile bakers; were you aware of that? *A. I am not aware of it, although I saw it in the morning papers.*

"Q. The number was decreased since 1915, as the testimony shows, from 800 to 400 of the Jewish bakers, and the output proportionately decreased. Were you aware of that? *A. I read it in the papers this morning.*

"Q. Are you aware of the fact that the Jewish journeyman baker, because of the strength of his organization, gets more than twice the wages of the Gentile baker in the same city? *A. Much to the credit of the Jewish baker.*

"Q. There again, Mr. Gompers, it is not a question of asking your opinion. *A. I did not know it until I read it in this morning's paper.*

"Q. Are you aware that the wages for the average of about six hours a day are $96 a week? *A. I saw that in this morning's paper.* * * *

"Q. Didn't you know the business is getting away from them and going to the others because of this discrimination in wages? *A. I saw that in the papers.*

"Q. Didn't you know that the bakers' unions of which the Gentile bakers are members were also a part of the international that is affiliated with the American Federation of Labor? *A. Yes, sir.*

"Q. What would you think of a regulation among the Jewish bakers that would not allow any bakers from the Gentile unions to get into the Jewish unions? *A. Well, I suppose that is a religious principle.*

"Q. No, no, it is a business proposition. *A. Then why should they call themselves the Jewish Union?* * * *

"Q. Suppose that was the purpose, to keep that monopoly among themselves, and not let the other men in who are getting less, would you consider that justifiable? *A. Not upon that ground."*

Taking up then the question of a reasonable number of hours per day, the testimony continued: (p. 7125)

"Q. Is four and a half or five hours of work, in your judgment, a fair day's work? *A. That all depends in which stage of civilization we live.*

"Q. Well, in the present stage of civilization, the one in which we are forced to live, do you think that is a fair day's labor? *A. I think it is a short work day.*

"Q. Well, we all know that. *A. Yes.*

"Q. That is not the question. Is that a fair day's labor. *A. I see no reason to characterize it as not a fair day's labor.*

"Q. How would a three-hour day do? Would that be a fair day's labor? *A. If we have reached that stage of civilization, yes.*

"Q. We are talking about the present day, Mr. Gompers. *A. I do not know; I cannot tell. In some industries——*

"Q. You said on a previous occasion that not even you could see into the future, which was a great concession. *A. I repeat——*

"Q. Speaking of present day conditions, the question is, would you consider three hours' work a day in the bakery a fair day's work? *A. I regard that as an extremely short day.*

"Q. It might be short and might yet be fair. *A. It may be short and yet be fair.*

"Q. What? *A. It may be short and yet be fair.*

"Q. Would this be a fair day's labor in the present state of civilization? *A. I should hardly think so; I do not think I would advocate it, or would I condemn it.*

"Q. You would not condemn that? *A. No.*

"Q. At $12 a day? *A. Not even $13 a day.*

"Q. These people get $15 a day, how would that strike you? *A. Good luck to them."*

Mr. Gompers referred to the time when bakers worked long hours and got so little money that they could not afford to marry: (p. 7127)

"Q. I know they couldn't get married, and they almost starved. Now, that is a situation with which we are all familiar, and I think everybody is glad to see them get, and everybody has been glad to see it thrive, but do you regard that as any reason why, when the union has grown strong, it should turn and oppress the employer in the same way that the employer oppressed the union? *A. There is no reason, no good reason, but it is cause and effect. I know men. I study men."*

The witness was asked if he did not regard it as self-destruction for unions to pursue a policy which made it impossible for their members to compete with other workers in the same trade. The witness asked if that meant as to hours and wages. The testimony continued: (p. 7128)

"Q. Yes; in all the matters that render competition with their competitors impossible, and that are driving their own customers, their own employers, out of business, so that now they cannot find enough labor for their people, and they had to divide them into two classes, regulars and substitutes, making the wages so high that the regular can live on four days' work of six hours a day, and the substitute has to live on the other two; isn't that a foolhardy, short-sighted policy? *A. I think it is a short-sighted policy.*

"Q. Do you think any friend of the unions should stand by and allow that process of self-destruction to go on without trying to prevent it? *A. Well, I don't know how to answer that. It is a matter as to conscience and duty.*

"Q. As a labor leader don't you think you are under a duty to step in and advise in such a situation? *A. No, sir."*

The question then turned upon collective bargaining and the witness declared himself an advocate of the principle of collective bargaining with the right of employers to bargain collectively on their side as well as the workers to bargain collectively on theirs. The testimony continued: (p. 7131)

"Q. Take the Jewish Bakers' Union as an illustration. The proof shows that it is uncontradicted that the unions will not allow the employers to organize, but insist upon each employer making a separate contract; you do not approve of that, do you? *A. No, sir.*

"Q. That is a vicious thing, is it not? *A. No. I do not approve it.*

"Q. What? *A. I don't think it is right. I would not call it vicious.* * * *

"Q. Did you know, Mr. Gompers, that as far back as 1919 you had been appealed to by the employers on this subject of the Jewish bakers, and that you had referred the subject to Mr. Frayne, and that Mr. Frayne in turn had referred the subject back to the local union against whom the complaint was made? *A. No, sir; that is, my memory does not serve me."*

The correspondence was read and it appeared that the appeal of the employers to Mr. Gompers was referred to Mr. Frayne and by Mr. Frayne to the business agents of the Bakers' Union and there the matter dropped. In other words, the trade union movement refused to exercise its influence to relieve the burdens upon the employers. The testimony continued: (p. 7137)

"Q. It was testified yesterday that Mr. Goldstein and Mr. Freund could not get the bakers to listen to the idea of a conference for collective bargaining or meet a committee of the employers: now, how would you correct such a situation? *A. Any way possible except by law.*

"Q. But which way? *A. By the influence of the labor movement.*

"Q. But, Mr. Gompers, is that one of these unseen particles floating in the air? *A. I don't know.*

"Q. What is this thing of which you speak in these general terms? *A. The best facilities, the best that can be devised to bring about some solution of that situation.*

"Q. Don't you realize, Mr. Gompers, that we are dealing here with actualities and you are dealing with theories? *A. I know we have lived up to the present time and have not gone to the bowwows.*

"Q. But don't you see that other people are going to the bowwows? *A. No, they have not.*

"Q. These employers are going to the bowwows in the baking business; now, what I want to know is how would you suggest remedying such a situation, not how you should not do it, but how you would do it except in the way that we are proposing to do it. *A. Well, you won't do it, that is all.*

"Q. When you say we won't do it, what do you mean? *A. I say you won't do it.*

"Q. Do you mean you have so much political power and that the legislators are so false to their duty that if they believe this is a right thing to do they won't do it from fear of your unions? *A. No, sir.*

"Q. What do you mean by saying they won't do it? *A. Because you cannot get back to the old regulations.*

"Q. What are you talking about, what old regulations? *A. If you give me a chance, I will tell you about it.*

"Q. We are talking about new regulations. *A. You want to go back 300 years.*

"Q. 300 years? *A. Yes, sir, 300 years.*

"Q. So it is your idea, is it, that if a legislature should provide some means of redress against these abuses to which I have referred, and many others of a like character, eliminating the abuses without affecting labor unionism or strikes or the right to strike, that that would be going back 300 years, is that your idea? *A. To fix the status of men by law.*

"Q. We are not suggesting fixing the status by law. I am coming back to my question, Mr. Gompers. We waste time in nothing, generalizing. I want to know what corrective or remedy you have to suggest other than the one we are suggesting. *A. I have already expressed my view.*"

Again:

"Q. You and I personally are not going to have any controversy; do you admit there is no way of correcting this? *A. Not by law.*

"Q. Is there any other way of correcting it now? *A. No.*

"Q. And you would leave it that way. *A. I would do the best I could under the circumstances.*

"Q. What would you do? *A. I would use every influence I could to bring about a better course of conduct.*

"Q. Don't you see that in 1919, two and a half or three years ago, that effort was made? *A. Yes, sir.*

"Q. The testimony shows it has been made ever since and the unions won't listen to it. Now, what would you do, what concrete thing would you do to correct that abuse; is there anything you could suggest? *A. I would rather bear the ills I have than to fly to others.*

"Q. Your answer is no answer; do I understand you to say you would do nothing because you can see nothing that can be done? *A. There is no way by which that can be corrected by law.*

"Q. Is there any other way of correcting it? *A. Only the way that I have said, by time.*

"Q. That is no way; have you any way whatever on God's earth of correcting that ill? *A. It cannot be done immediately.*

"Q. There is no way that you know of? *A. There is no way.*"

After the recess counsel for the Committee questioned the witness as to the political power of the trade unions, and the record shows: (p. 7141)

"Q. Before recess, in the course of examination, you said to me, referring to the Committee, in answer to an outline of suggested regulation, 'You will not do it.' What precisely do you mean by that, Mr. Gompers? *A You will not be able to enforce any such regulatory legislation as you have manifested in your statements as proposals of yourself to the Committee.*

"Q. Do you mean by that if the Committee recommended such legislation that it would not be able to pass it through the legislature? *A. I did not say that.*

"Q. Is that what you mean? *A. No, sir.*

"Q. You did not mean that it would not become law. You meant, after it had become law, it could not be enforced? *A. Yes, sir; and I doubt that the legislature would enact any such legislation.*

"Q. You did not mean then, did you, that the labor unions, through its legislative committees and its influence in other directions would oppose such legislation, and be able to defeat it? *A. We would oppose it, but whether we would be able to defeat it is another thing.*

"Q. Don't you think that would depend upon its justice, whether right or wrong? *A. Yes, sir; and its adaptability and enforcement, and its effect and influence upon the people.* * * *

"Q. And at what do you understand this regulatory legislation is aimed? *A. Of any character that does not apply to any other voluntary organization organized not for profit.*

"Q. No; you are wrong. It is to be made applicable to all voluntary organizations. *A. And can have no effect or influence upon any other voluntary organization, organized not for profit, except labor organizations.*

"Q. Then, you do not quite understand the proposal, Mr. Gompers. The proposal, if enacted in the form suggested, would apply equally to all voluntary unincorporated associations. Now, that being so, it would also apply to labor as well as to others. Now, that being so, would that modify your views at all? *A. No, sir; because its application would be to labor and to labor alone, no matter what the intent of the proposal may be.* * * *

"Q. Do you know that the New York Stock Exchange is an unincorporated organization or association? *A. No, I don't know whether it is or not.*

"Q. Well, it is an unincorporated organization, a membership organization, which has for a long time been a law unto itself. Suppose it applied equally to that, would your view be at all modified? *A. Not at all.*

"Q. Don't you think that ought to be under any sort of control? *A. I am——*

"Q. Don't you? *A. I am little concerned about it.*

"Q. I do not think I asked whether you were concerned. I asked whether you were not of the opinion that that ought to be brought under the control of the law so as to stop its being used for gambling and illegitimate purposes. *A. I think the whole transaction is nothing but gambling.*

"Q. Of course, you know it is a great security market where honest investors buy and sell for cash, don't you, as well as having an element of gambling; did you know that? *A. Yes.*

"Q. Sir? *A. Yes.*

"Q. Don't you think that there should be some regulation to prevent imposition upon the public by illegitimate gambling methods that might or might not now exist in the Stock Exchange? *A. Yes.*

"Q. But illegitimate methods and abuses in labor unions you would put in an entirely different class, wouldn't you, even though they were to be covered by some law for the control of unincorporated voluntary membership associations? *A. I would reply to the organizations of the wage earners——*

"Q. There are abuses in both classes, aren't there? *A. The abuses are not of the same character.*

"Q. Do you suppose that abuses ever are in different organizations? *A. Hardly.*

"Q. The fact that the abuses differ, of different character, would that constitute any reason why one class of abuses should be unregulated and the other regulated? *A. This is an abuse, if abuse, or whatever abuses is with the matter affecting the labor of the working people.*

"Q. Don't you think that these unincorporated voluntary associations should be required to have a license? *A. No.*"

Mr. Gompers expressed a notion that the existing law was adequate. Then the witness suddenly departed from the line of questioning and asserted that in the early days of trade unionism the economic and political power of trade unions were ridiculed. The testimony continued: (p. 7145)

"Q. Now, you say political power of labor is feared; it has grown so strong? *A. I spoke of power. What I had in mind was economic power.*

"Q. You did not have the political power in mind, did you? *A. Not exactly, no; but what I had in mind was the economic power.*

"Q. What I am inquiring about is, when you said that the power of labor is feared, did you mean that the political power as well as its political economic power? *A. Sometimes.*

"Q. Labor has great political power, has it not? *A. I hope it will have more.*

"Q. It has now, has it not? *A. It has some.*

"Q. It has vast power? *A. I do not think it is vast.*

"Q. Not as great as you would like to see it? *A. Not by any means.*

"Q. You would like to see it control everything? *A. I would like——*

"Q. Wouldn't you like to see it control legislation? *A. Yes, largely.*

"Q. Wouldn't you like to see the power of labor control all legislation? *A. No.*

"Q. What kind of legislation have you in mind that you would not like to see it control? *A. By specifying —it is unlimited—I would like to have the labor, the great mass of the wealth producers of our country, exercise the economic and political powers which by their services to society they so richly deserve.*

"Q. That undoubtedly is another figure of speech, intended for the platform rather than for the witness stand. *A. That may be your interpretation of it, but it is not.*

"Q. What I want to know is what sort of legislation would you exclude from the power you would like to see labor control in the framing of legislation; is there any? *A. That is difficult to answer just offhand.*

"Q. Can you think of any legislation which you are not looking forward to seeing labor control? *A. All legislation that makes for the benefit, the progress, the advancement, the safety of the great mass of the people of the United States; I think that the mass, the workers, the producers, should have the controlling voice in legislation upon that subject. I mean——*

"Q. That is still another addition to the galaxy of figures of speech. *A. Perhaps I am incapable of finding any other method of expressing myself.* * * *

"Q. Then you would like to see it control all forms of legislation? *A. I would like to see our citizenship control, the whole citizenship.*

"Q. No, I am speaking of labor. *A. Yes, sir.*

"Q. And I am taking you up on your proposition that you would like to see labor control legislation, and I am trying to find out to what extent. *A. What I mean is, to have a large voice in determining the course of legislation.*

"Q. You would not care to see it control legislation? *A. Hardly, no. I am as much opposed to the dictatorship of the proletariat as I am of the princes of finance.*

"Q. But being opposed to the dictates of the proletariat in legislation, your organization—its legislative committees—are very actively engaged, are they not, in promoting legislation? *A. Yes, sir, and opposing it.*"

Invited to make any further explanation of his testimony, Mr. Gompers made a short speech covering three pages of the record in which he reviewed the fact that he and the American Federation of Labor have made efforts to eliminate the abuses and wrongs practised by trade unions, but that the aspirations of men implanted in them by nature could not be removed by surgery or legislated out of existence by law. The concluding paragraph was as follows:

"*Now, you cannot fix the aspirations of the workers by law. You cannot fix it at all. That is a matter which must come with time. I know that I have been subjected to criticism because I have invoked the idea of patience, but that is all right; long after I am gone—I don't know how soon that may be—long after I am gone the fact that I have presented to this Committee will be recognized as true, not a revelation by me, I am not a seer, but simply as from one who has studied men, man as he is, and man as he was, counting on their largeness of mind and heart, and with their almost idiocy, narrowness and selfishness. counting man as he is, not as I would like him to be, and I know that any attempt at the species of legislation to which I have referred, and which seems to be the point toward which you have been working, will fail, that is all, even if you succeed in having the legislation enacted in the State of New York.*"

Referring to Mr. Gompers' dissertation on human frailty and human aspiration as opening a broad field of inquiry which the Committee could not undertake, Mr. Untermyer sought to narrow the inquiry. The testimony continued: (p. 7152)

"Q. Do you think there is anything in there about the aspiration of the human race that none of us understands? Do you see any novel proposition in that statement? *A. Nothing novel.*

"Q. Do you see anything in there that we do not all subscribe to? *A. I don't know.*

"Q. Are you opposed on principle to legislation affecting labor? *A. No, sir.*

"Q. The Legislature passed the eight-hour law, did it not? *A. As to what?*

"Q. On public work? *A. Yes, sir.*

"Q. You did not object to that, did you? *A. The Government was the employer; it was the only way that it could be obtained.*

"Q. Did you object to the half day on Saturday? *A. No, I was very strongly in favor, in fact, I was one of the first to propose it.*

"Q. You do not object to laws enlarging the privileges of labor? *A. It is not a question of privileges—*

"Q. I ask you, you do not object to laws enlarging the privileges and enlarging the opportunity of labor? *A. We do not ask for privileges.*

"Q. You call them all rights, do you not? *A. Rights which are still denied, yes.*

"Q. You did not object to any of the laws, you supported the laws, did you not, that enlarged the rights of labor? *A. Yes.*

"Q. But you object to any laws to curb the abuses of labor, do you not? *A. Yes, sir, abuses such as you were discussing.*

"Q. Well, any abuses, do you not object to laws that curb any of the abuses of labor, the labor unions? *A. Existing law which applies—*

"Q. You object to laws that provide remedies for the laborers themselves when they are oppressed by their unions, do you not? *A. Yes, sir.*

"Q. And you object to laws that would permit remedies for the public who may be oppressed by regulations of the unions, do you not? *A. I do not know of any public being oppressed.*

"Q. Haven't you conceived in any of the cases in which the public is oppressed by laws, regulations of labor unions as they exist today, that the public is oppressed? *A. I have not.*

"Q. You have not? *A. No, sir.*

"Q. The fining of employers by labor unions, don't you think that that is oppression? *A. I think it is unjust.*

"Q. Do you think it oppression? *A. I think it is unjust.*

"Q. That was not the question. I am putting the question. Do not you think that where a union is so strong that the employer must subscribe to the terms of the union in order to get labor, to fine the employer without any right of redress to him is oppressive? *A. To him, yes.*

"Q. I did not intend to inquire whether it was oppressive to the men who practised the oppression, but to the person upon whom the oppression is practised. It is oppressive upon him, is it not? *A. Yes, sir.*

"Q. Do you not think that when the labor union exercises its just right of collective bargaining it is very oppressive to prevent the employers from doing the same thing? *A. I don't think that that is oppressive. I think that it is a mistake, and wrong.* * * *

"Q. Well, let us see. Do you not think it oppressive not only upon an employer, but upon the public, and a great burden upon building construction, to require that work that can be more cheaply done in the shop shall be done on the job, so as to give opportunity for more labor and increase the cost of the work? *A. Whether that is oppressive?*

"Q. Very oppressive, is it not? *A. No.*

"Q. Not at all? *A. No.*

"Q. Not in the least? *A. No.*

"Q. You do not think that is an imposition upon the community? *A. No. In either event the contractor does the imposition.*

"Q. How does he do the imposition, if he wants to do the work more cheaply in the shop, and the union insists it must be done more expensively on the job? *A. The contractor does not figure for the purchaser or for the owner or for the public; he does not figure that way, the economy of it and the passing along of the economy to the public or to any prospective owner, that is his.*

"Q. You think that that is his? Do you not know that there is competition in estimating for work? *A. I know there is supposed to be.*"

The witness was reminded that although restrictive agreements and understandings had been discovered between the material dealers, none had been discovered among the contractors and that the object of the Committee was to discover a way of securing cheaper homes for the working classes. The testimony continued: (p. 7159)

"Q. Let us go back then to the subject from which we have been deflected. I do not want to go over this whole subject again, but if you can say that where a union insists and its regulations provided that where reinforced concrete is fabricated at the factory to be brought to the job, the owner or contractor or the employer must pay a bonus to the union of six dollars a ton for cut steel and eighteen dollars a ton for fabricated steel, because that is the difference between what it would cost the owner to do it in the factory and what it cost to do it on the job, that that isn't the grossest form of oppression upon building? *A. Yes.*

"Q. Don't you think it is an oppression when the unions penalize employers for using machinery? *A. Yes.*

"Q. Are you or not aware of the fact that some of the unions provide that a day's work shall be less hours in places where machinery is used than in places where it is not used for the purpose of discouraging the use of machinery? *A. No.*

"Q. Never heard of that? *A. No.*"

Although the witness had never heard of penalizing an employer for using improved machinery, he regarded it as perfectly just to do so, because the use of machinery ought to result in an improvement in the condition of the worker both as to wages and time. The testimony continued: (p. 7162)

"Q. Now, you think that where a man introduces machinery in his plant, so as to be able better to compete with other people who have machinery, that that should result in shorter hours and bigger pay for the man in the factory rather than having that entire economy go to the public? *A. The worker is entitled to that share by improvement in his condition.*

"Q. Doesn't he get it through the reduced price of the article? *A. That is so infinitesimal that it counts as nothing between the loss of his employment.*

"Q. Don't you realize then you are penalizing men who put machinery in the factory? *A. No, sir; on the contrary, the demands made by labor for improved conditions is one of the greatest incentives for the introduction of machinery and new machinery and new tools.*

"Q. You mean his exactions in the way of hours of labor make it necessary for new machinery. *A. Call it exactions if you please, but it is the demands of labor.* * * *

"Q. In the case I have in mind, testified to yesterday, because this factory, this bakery, put in machinery, the union insisted on reducing the hours of work to four and a half hours a day, thus giving employment to more men than if he had adhered to the old hours; that you consider fully justifiable, do you? *A. Yes, sir, justifiable, universal.*

"Q. And if he had put in still more machinery and made still more economies it would have been justifiable to reduce the hours of labor still further, would it? *A. You know what the logic of some reasoning is.*

"Q. Isn't that the logical result of your theory? *A. No, sir, that is to the point of ridiculousness.*

"Q. Isn't four and a half hours a point of ridiculousness today? *A. No, sir.*"

Counsel pursued his questioning for sometime to find

the length of a day's work which in Mr. Gompers' opinion would be ridiculous for a compensation of $15, but without success. The witness admitted that four and a half hours for that wage was abnormal, but would not confess that such a day was either reasonable or unreasonable.

Returning to the "aspirations" of the workers, the testimony continued: (7169)

"Q. You said a good deal about aspirations of the working men, and that you cannot legislate out aspiration, am I right about that? *A. Yes, sir.*

"Q. If aspirations take the form of abuses and oppression and infringement upon the rights of others, and there is no legal remedy, don't you think that the law—don't you think there should be legislation to prevent that kind of aspirations? *A. But that is not an aspiration.*

"Q. Don't you think the law should legislate to prevent that kind of aspiration? *A. There is no such aspiration; there cannot be.*

"Q. Aspiration for better conditions, I emphasize for better conditions, may be accompanied, may it not, by oppressive and abusive practices? *A. It may be.*

"Q. A man may aspire to be very rich and rob a bank, may be not? *A. He may.*

"Q. Then the fact that the laboring man has aspirations with which we all sympathize, does that in your judgment justify these abuses and acts of oppression for the purpose of gratifying those aspirations. *A. Call attention to the fact; I am not justifying them; I am calling attention to the fact.*

"Q. But you understand that most people who do improper things, or abuse or oppress others, have aspirations of their own? *A. I wouldn't call them aspirations.*

"Q. Some men aspire to get other people's money, don't they? *A. I do not understand the word 'aspiration' in the sense you just used it.*

"Q. Aspirations in your use of the term, means yearning toward a better state? *A. Better condition of life.*

"Q. Well, the man who wants better condition of life for his family and steals in order to get it, has stolen in support of an aspiration? *A. I doubt that is it.*

"Q. Has he? *A. No, he has not.*

"Q. The working man or labor union that aspires to control industry so as to dictate the terms of employment and better his or their condition thereby, that is an aspiration, isn't it? *A. Not the dictation, but the power.*

"Q. The power to dictate is an aspiration? *A. The power to enforce a righteous condition of life.*

"Q. No; isn't the power to control an industry by a labor union a proper aspiration for the union? *A. To control the industry, no.*

"Q. Not to control the labor in the industry? *A. To control the labor of the industry, yes.*

"Q. That is a worthy ambition, isn't it? *A. Yes, sir.*

"Q. And in your judgment any means that are adopted to gratify that aspiration as proper means. *A. I did not say anything of the kind, and I have not any—*

"Q. If you had said it I would not have asked you. *A. I had no such thought in my mind.*

"Q. You do not attempt to justify or to excuse or to criticize the attempt to suppress abuses and oppression in labor unions by reason of the fact that the aspiration is a noble one; do you? *A. The question is rather a long one and I would like to have it read.*

(Question read.)

"THE WITNESS: *It may be that I am dull in comprehension, but I do not understand the question.*

"Q. I will repeat it: Does the fact that the aspiration of the union to control the labor in an industry is a noble one, in your judgment, justify or defend or excuse abuses or acts of oppression in reaching that aspiration? *A. No; I don't justify that.*

"Q. And you do not excuse them on that ground, do you? *A. And do not excuse them either.*

"Q. But you do insist that they should not be suppressed because they are aspirations? *A. Not suppressed by the Government; Yes, I am opposed to that.*

"Q. Even assuming that you cannot suppress them within your own life? *A. Even presuming——*

"Q. Assuming. *A. We do the best that can be done or will be done.*"

Pressing the witness still further upon the grounds of his objection to suppression of abuses by the power of the state, the testimony reads: (p. 7174)

"Q. Why is it that instead of the abuses and acts of oppression decreasing they are increasing? *A. In some instances that is true.*

"Q. Isn't it true in every department of the building industry? Can you name one in which there are not such abuses and acts of oppression inaugurated in the last five years, and on the increase? Can you name any industry in the building trades in which that is not true? If you can, I will confront you with one? *A. I understand that through your instrumentality some of them have been abated.*

"Q. They promised to abate them, but unfortunately they have rescinded some of their promises? *A. Not all.*

"Q. No; some are being abated. But you see that is through the process of a hated legislative investigation and not through the voluntary act of the union. *A. By a voluntary act, an intermediary.*

"Q. What makes you think so? Don't you know that many of them were abated under the threat of prosecution? *A. That has been the case with a large part of this investigation.*

"Q. What is that? *A. That has been the case in a large part of this investigation.*

"Q. You mean a great many abuses have been abated and a great many illegal acts have been stopped because they have been exposed and there was fear of prosecution? *A. I understand that.*

"Q. You approve of that, don't you? You would approve of that, would you not? *A. A threat of prosecution?*

"Q. No; you would approve of the Committee endeavoring to abate illegal acts and abuses? *A. Yes, sir; but not under the threat of prosecution.*

"Q. Wouldn't that be better than to prosecute them; or would you rather have the Committee prosecute them and not abate them? *A. Abate them without the threat.*

"Q. You think so? *A. Yes, sir.*

"Q. You have not tried, have you? *A. Since I have had no power to prosecute, no.*

"Q. You had said something about human strength and weakness. Did you mean that in connection with the abuses that had been called to your attention in the agreement? *A. In part, yes, sir.*

"Q. Don't you know that the law is intended to correct human weaknesses that injure the public? *A. Yes, sir.*

"Q. I suppose you know that if we had no law there would be a great many more human weaknesses exercised? *A. Probably.*

"Q. Why isn't the law a good medium for restraining the human weaknesses in labor unions that are injuring the public? *A. First, I do not think that they are injuring the public, and, secondly, I repeat that it simply means that you cannot remedy that which you call abuses by law. You will find that it is expressed in some other form, perhaps in a worse form.*

"Q. You do not mean that, do you? *A. I do.*

"Q. You can stop a man from stealing by law, can you not? *A. No.*

"Q. Or punish him? *A. You can punish him. You do not stop stealing.*

"Q. Doesn't that deter other people from stealing? *A. I think people as a rule are honest.*

"Q. You do not think the fear of the law deters anybody from stealing? *A. Not much.*

"Q. Not much. So we might as well have no laws against stealing? *A. No; that is the other extreme.*

"Q. Is that true with respect to acts of violence? Don't you think that they are restrained by the fear of the law? *A. In part, yes.*

"Q. Don't you think that the law is the greatest deterrent against crime? *A. No, I think education and civilization are.*

"Q. We are talking about the present day? *A. Yes, I am speaking of the present day.*

"Q. Is it your understanding then that the law is not a great deterrent against crime, the fear of the law? *A. Yes.*

"Q. Then why not to prevent these abuses through mild, just, regulative processes such as the Federal Trade Commission is now engaged in exercising with respect to improper practices in trade? Where can be the harm in that? Is it the wedge you are afraid of, it is the entering wedge that is bothering you? *A. Not altogether.*

"Q. Did I correctly understand from your statement that your fear was that when you once had any regulatory power over attempted oppression and abuses, that that power would be constantly extended until it interfered with the liberty and development of the union? *A. That is one of the points. I do not fear, I do not fear anything or anybody.* * * *

"Q. If you could be assured that that is as far as it could go, you would not object to it, would you? *A. It is impossible that any such assurance can be given to my satisfaction.*

"Q. Let us assume as an academic question that you can be assured that the legislation would not go beyond what I have outlined; you would not then object? *A. I would.*

"Q. Would you? *A. Yes, sir.*

"Q. Do not you think that such legislation would strengthen the unions in which these abuses would not exist? *A. No, it would weaken every one of them.*"

Mr. Gompers was asked if it would not strengthen the cause of organized labor if these abuses were eliminated. He admitted it would. The testimony continued: (p. 7178)

"Q. Do not you know that the enemies of organized labor are living upon these abuses as their sole argument and stock in trade against the whole organized labor? *A. That is not their sole argument.*

"Q. It is not their main argument? *A. It is their pretended argument.*

"Q. It may not be their sole reason. *A. I think you are right, sir.*

"Q. If therefore that argument would be taken from them do not you think organized labor would be in a tremendously strengthened condition? *A. Yes, sir.*

"Q. Then why don't you come in and help us do it? *A. I am doing it without your assistance.*

"Q. And meantime you see the abuses are increasing? *A. That may be true too.*

"Q. That is not very good work, is it? *A. Yes, sir.*

"Q. How much have they got to increase before your work will be perfect? *A. We will see that these things*

are done. There were abuses before you and I were born, and they will continue.

"Q. Not as many as now? *A. Yes, more, except that they were on the other side.*

"Q. You mean the abuses were on the side of the employers? *A. Yes, up to the hour.*

"Q. Mr. Gompers, I want you to understand I concede that the abuses on the part of the employer before the labor unions got in power were ten-fold what the abuses of the labor unions are today. Is that any reason why the abuses of the labor union may not be restricted and suppressed? *A. That is no reason. But the question is of the law's taking hold.*

"Q. The tiger claws of the law? *A. The state.*

"Q. You are terribly afraid of the law? *A. I am not, I told you.*

"Q. You are afraid of it for the unions? *A. I am afraid for my country.*

"Q. You are afraid of the law for your country, and incidentally for the labor unions? *A. I am afraid for my country if there is an attempt at this legislation.*

"Q. Let me inquire, that it might lead to revolution? *A. No.*

"Q. Then what are you afraid of? *A. Afraid of the development of greater tyranny and power.*

"Q. Resulting in what? *A. Of wealth, largely the control of legislation and of the courts.*

"Q. Do you believe that wealth has as much control over legislation as labor has? *A. Oh, my—*

"Q. Do you? *A. Do I? I know it."*

ASSEMBLYMAN LEININGER, a member of the Committee, informed the witness: "I think you are mistaken. You are making a mistake."

Pursuing again the fantom of power to restrain abuses, the testimony reads: (p. 7181)

"Q. You are not willing that anybody should eliminate them, or that the law should eliminate them; they must be eliminated, then, by the people who are practicing them? *A. There are large parts of them that do not practice them.*

"Q. But these abuses can only be eliminated outside the law by the local unions who practise them? *A. And by the influence which can be brought to bear.*

"Q. But I am talking about the way in which it can be done, only by the unions which practise them. *A. Yes."*

Mr. Gompers had testified that trade unions represented the aspirations and spirit of self-preservation of the workers. The question of the relation of their proposed aspirations to the abusive practices of the unions had been discussed. Counsel then took up the relation of the spirit of self-preservation to these abuses. The testimony continued: (p. 7182)

"Q. You know that crime is divided into two categories—crimes against the person and crimes against property. Do you not understand that most of the crimes against property, the bulk of crimes, are from a spirit of self-preservation? *A. I do not regard that as self-preservation.*

"Q. Do not you suppose that a man who did not need money to buy what he wanted would not rob a house and steal other people's property? *A. Generally, I think not; I think men would not generally.*

"Q. Then that is done from a spirit of self-preservation, is it not—against want and the want of their families? *A. There is no self-preservation against tyranny, as in the case of the workman toward employer.*

"Q. We are talking now of this spirit of self-preservation. *A. When I spoke of self-preservation and self-protection it was against the tyranny and greed of employers. There is no analogy that I can see.*

"Q. We will come to the analogy if you will answer my question. *A. I am trying to.*

"Q. Now, in the same way, do not you know that if self-preservation were to make a man immune from punishment most crimes could not be punished? *A. No, I do not.*

"Q. Well, the man who steals from need, in order to give food to his family, he steals from a spirit of self-preservation, or robs, or whatever it may be? *A. Yes.*

"Q. Now, if self-preservation were an excuse or a defense, he should not be punished, should he? *A. Well, I cannot find an answer to that.*

"Q. This abuse of limitation of membership in the unions, that is an illustration of the spirit of self-preservation, isn't it? *A. I think that's the idea.*

"Q. So that everything that is done in a spirit of self-preservation must not necessarily be approved, must it? *A. No.*

"Q. That regulation, dictated by the spirit of self-preservation, flies right in the face of the fundamental principle of unionism, doesn't it? *A. Yes, sir.*

"Q. In other words, you cannot go out and say that every man shall belong to the union and then keep him from coming in, can you? *A. No, sir.*

"Q. And yet you would allow that to continue? *A. No, I would not. I would prevent it if I could. I am trying to.*

"Q. But don't you know that these regulations have been on the increase in the last few years? *A. I think not.*

"Q. A regulation allowing one apprentice to fifty men; that is dictated by the same spirit of self-preservation, isn't it? *A. Yes, sir, and one out of ten in painters, for instance.*

"Q. And one out of ten among the lathers; what do you think of that? *A. That is a small percentage.*

"Q. That is an outrage upon the young men who are coming up, isn't it? Don't you think so? *A. No.*

"Q. Is there such a thing as an outrage in a labor union, however oppressive it may be? *A. I don't care about characterizing the conduct of any organization with terms of opprobrium. I criticize and make known the grounds of my criticism.*

"Q. And let them go right along? *A. No, sir.*

"Q. But they are going along. *A. Suppose they are, I don't let them go along.*

"Q. You don't stop them? *A. I do try my best.*

"Q. You haven't done it, have you? *A. I have stopped some of it.*

"Q. In the last five years is there a single reform in all the constitutions and by-laws of these different unions, in some of which there are as many as fifty abuses in a single union? *A. Probably.*

"Q. Has one been reformed? *A. Not those to which you refer.*

"Q. Any others, can you refer to one that has been reformed in five years in any union in Greater New York? *A. I cannot say that I can."*

Of his own initiative the witness referred to the factory conditions prevailing at the time of the Triangle fire in which 150 girls lost their lives. Mr. Gompers was appointed a member of the Factory Investigating Commission which followed that disaster and reported on conditions to the legislature. The testimony reads: (p. 7186)

"Q. Your Commission did recommend legislation, did it not? *A. Yes, sir.*

"Q. It was passed, was it not? *A. Much of it.*

"Q. Was it effective? *A. Considerably so.*

"Q. So that there are cases when legislation may be passed that may correct abuses? *A. Undoubtedly.*

"Q. Provided they are abuses by the employers and not by the unions, is that right? *A. No."*

Mr. Gompers then referred to the passage of a law restricting the manufacture of articles in tenement houses which was declared unconstitutional. He was reminded that a subsequent tenement house law was upheld. This lead him to an exposition of his theory that although the Constitution should not be abolished still the power of a court to hold a law unconstitutional should be abolished. The testimony continued: (p. 7187).

"Q. What complaint have you to make on that score; what is the point of that reference? *A. I am calling attention to the fact that that law in the interests of labor was declared unconstitutional, just as the bakers' ten-hour law passed by the Legislature of the State of New York was declared unconstitutional, and just as the Child Labor Law was declared unconstitutional.*

"Q. There are a great many laws that did not affect labor that were also declared unconstitutional, were there not? *A. I know.*

"Q. Would you like to abolish the constitution for that reason? *A. Is that a fair question?*

"Q. Yes, indeed, it is, because that is not a fair argument you are presenting. I say wouldn't you like to see the constitution enforced? *A. Yes.*

"Q. You believe in a written constitution? *A. Yes, sir.*

"Q. You believe in State rights? *A. Yes, sir.*

"Q. You believe each state should have its written constitution? *A. Yes, sir.*

"Q. You believe the judiciary should construe it, do you not? *A. Up to the point of declaring a statute passed either by Congress or by the State Legislature—to declare any statute passed as unconstitutional, I believe, and I think that I have the history of our country with me, that no such power was ever ceded to the courts.*

"Q. Of course, Mr. Gompers, that is an old subject of debate, isn't it; it has been up for a great many years; now do I understand you to say that from your point of view no statute should be nullified because it violates the constitution; is that right? *A. By the courts.*

"Q. Where could it be except by the courts; I say no statute should be nullified because it violates the constitution is that your point of view? *A. No, sir, my point of view is this, that the power of declaring enactments by Congress as void and unconstitutional, is a power never ceded to the courts.*

"Q. That being so, you take the view then, do you, that no statute passed by Congress or by a State Legislature should be declared unconstitutional by the courts, or they should not have the power to do so, is that right? *A. Yes, sir.*

"Q. Unqualifiedly? *A. Unqualifiedly.*

"Q. Then what is the good of the constitution if the Legislature or Congress may pass any law without reference to the constitution; of what use is the constitution? *A. A constitution is a charter of guaranteed rights of the people.*

"Q. But if a statute may be passed that violates that charter of rights of what use is that charter of rights? *A. And that is often decided by one vote in a majority of the court.*

"Q. Never mind about that, we are talking about a principle to which you have now nailed yourself, unless you would like to get away from it. *A. I have no desire to get away from it.*

"Q. You have promulgated the doctrine that the courts should not have the rights to declare unconstitutional any statute passed, is that right? *A. Yes, sir.*

"Q. If that be true, if that should be the law, what is the use of a constitution except as an ornament or declaration of principles with no fidelity whatever? *A. There*

is a congress of the United States, the representatives of the people.

"Q. I am asking you of what use the constitution would be if statutes could be passed without regard to it? *A. Statutes can be passed with regard to it, and without regard to it.*

"Q. Statutes cannot be passed when they violate the constitution. You say you would not permit that; your view is that they should be passed without reference to the constitution? *A. I did not say 'without reference.'*

"Q. Yes, you did. You said they should be passed and cannot be invalid because they are against the constitution. *A. Invalidated by the courts.*

"Q. Of course, by the courts. Now, if that is so, of what earthly use is the constitution, if it has not a limitation upon the legislative power? *A. It has not.*

"Q. What use is it if it has not a limitation on the legislative power? *A. Surely the congress, being representative of the people, elected by the people, have a right to pass laws expressive of the needs of the people at the time.*

"Q. But, Mr. Gompers, you don't meet the proposition. If that is true, that laws may be passed without being limited by the constitution, then, of what use is the constitution? You say you believe in a written constitution? *A. Yes, sir.*

"Q. Both for the States and the National? *A. Yes, sir.*

"Q. Now, if you believe in a written constitution limiting the powers of the legislation and of congress, then, if congress and the legislature can pass laws that violate that constitution, I ask again of what use is the constitution? Don't you understand me? *A. I think I do. In my judgment, congress has the power to express its understanding of the constitution, the constitutional limitations, and if the congress has power——*

"Q. Then, of what use is the constitution? *A. Well, as I said a while ago, it is a charter of guaranteed rights.*

"Q. How can it be a charter of guaranteed rights when congress can pass any kind of law that violates it? *A. It has to be presumed that congress would violate the constitution.*

"Q. But you know it often has, through the exigency of some occasion, and some kind of excitement. The constitution was intended to be a limitation upon congress. Now, I will keep on asking you of what possible use a written constitution can be if congress can pass a law without reference to it, without those limitations, and no court has authority to set aside that law? Don't you see that you are getting yourself into deep water? *A. No, sir; congress has its own corrective power. If it has erred in passing a law conflicting with any provision of the constitution, the correction lies within its own power, and not that of a power to which that authority was never conceded.*

"Q. Who is to determine when Congress has erred? *A. Congress itself; it has no correction.*

"Q. But doesn't that bring you back to the proposition that the congress should not have any right, and there should not be any right anywhere to interfere with or limit the power of congress under the constitution? *A. Yes, sir.*

"Q. Then of what use is the constitution? *A. Well, I think it is the chart to guide congress.*

"Q. A chart by which it may or may not be guided as it sees fit? *A. Hardly; but it would, and it does.*

"Q. But don't you know that the courts have said it does not hundreds of times, that they have set aside laws because they violated the constitution? *A. Yes, sir.*

"Q. Now then, don't you see if your theory is the right one we might just as well have no constitution? *A. No, sir.*

"Q. Except as a chart that congress might or might not abide by as it saw fit; don't you realize that? *A. It would be the chart, and that alone.*

"Q. That alone? *A. Yes, sir.*

"Q. Not a limitation, but just a chart? *A. A chart, and a limitation within its own powers.*

"Q. How can the constitution be a limitation when congress can determine to violate it whenever they see fit? *A. The President of the United States has the veto power.*

"Q. But if congress and the President can violate the constitution whenever they see fit, as they have done, in hundreds and hundreds of cases, with laws that have been declared unconstitutional, don't you see that the constitution ceases to be a limitation? *A. I think not, sir. When we find the courts deciding one way upon the same thing, and within a few weeks deciding the opposite,—the Income Tax case, if you please, where the Supreme Court of the United States declared by a vote of five to four that it was constitutional, and then within a few weeks, after, I think, five or six weeks after, the same court, the same personnel, decided it was unconstitutional.*

"Q. Well now, just a moment. That is not quite fair. You know that the court ordered a re-argument, don't you? You know that the court ordered a re-argument of the case? *A. The appeal was made.*

"Q. No, no; don't you know that the court, having decided that question by a divided court ordered it be re-argued, and on the re-argument reversed their decision? *A. One man changed his opinion.*

"Q. Never mind about that. You have got to have courts, haven't you? *A. Yes, sir.*

"Q. And there must be some ultimate power of decision in those courts, must there not? *A. Yes, sir.*

"Q. And the majority must rule, must it not? *A. Yes, sir.*

"Q. How are you going to have government on any other basis than that? *A. You cannot.*

"Q. Now, that brings me back to the proposition that if you stand for the doctrine that congress must have an unlimited right to pass laws, simply using the constitution as a voluntary guide, don't you see that the constitution becomes nothing but a scrap of paper? *A. I think it is more than a scrap of paper.*

"Q. Have you any idea what would have happened to this country in times of stress if congress had not been limited by the constitution, what sorts of laws the exigencies of various crises and occasions would have brought about; have you considered that? *A. Yes, sir.*

"Q. Have you ever considered? *A. I see that other countries which have no written constitution manage to safeguard themselves.*

"Q. Then you are against a written constitution, are you not? *A. No, sir.*

"Q. Is ours the better system or theirs? *A. I think ours has proven excellent and all-sufficient for our own safety and guidance.*

"Q. Don't you think ours is a better form of government in that respect, in having a written constitution? *A. Than having?*

"Q. In having? *A. Yes, sir.*

"Q. Then, why do you want to tear it up? *A. I do not want to tear it up; on the contrary.*

"Q. If you are going to give congress powers to pass laws without limitation to the constitution, can't you see that you are tearing it up? *A. No, sir.*"

Asked if he had anything further to say, Mr. Gompers expressed his desire to draw the Committee's attention to the chapter entitled, "Some Equivocal Rights of Labor," in Mr. Alger's book entitled, "The Moral Overstrain." The gist of Mr. Alger's comment was that the courts granted to the workers academic and theoretic liberty in place of actual industrial rights. In support of that the author cited the court's enforcement of the common law principle of contributory negligence. Mr. Untermyer reminded the witness that the common law doctrine relating to negligence had been replaced by the opration of the workmen's compensation statutes, of which Mr. Gompers expressed approval. The testimony continued: (p. 7199)

"Q. You say in those cases you did go to the legislature for relief, didn't you? *A. Certainly; it is the only way we can get it.*

"Q. But when the employer and the public are suffering from the oppression and abuses of labor unions that are very inimical to organized labor, you still adhere to the view that they should not go to the legislature for redress? *A. Yes, sir.*

"Q. That you think is perfectly logical? *A. Yes, sir.*"

Mr. Gompers was advised that he might have the opportunity to return to the witness stand at any time in the future when he had any further explanation to make of his testimony or knew of any relative matter which he desired to draw to the attention of the Committee.

Mr. Gompers was on the stand all day. He answered a great many questions and he volunteered a great deal. Yet, after careful study of it, it leaves no other impression than the simple idea that those who conduct their activities in the name of organized labor and with the aspirations and self-interest of organized labor as their nominal inspiration should not be deterred by the law, no matter how unjust or how oppressive their activities upon workmen, upon employers and upon the public. We read a great many labor publications and speeches of labor leaders, but in all of them there is a dearth of outspoken condemnation of the union abuses, and the criminal activities of professional leaders acting "in the interests of organized labor." Trusted labor leaders may be found guilty by the courts of defrauding their unions of thousands and thousands of dollars, they may be convicted of extortion in the form of "adjustments" to prevent strikes or "permits" to work, or they may be convicted of assault, dynamiting, arson or murder, and a distinguished advocate of the recognition of the rights of labor and the aspirations of the working people has no remedy to offer the afflicted. When he is challenged to accept the aid of society, operating through its government to whom all owe allegiance and in whose conduct all take part, to overthrow these evils, he vehemently protests.

But in one point, at least, Mr. Gompers is right, viz., most men are honest.

They demand that they be protected against all who are dishonest. That means that if the trade union movement is to survive, it must be honestly conducted by honest men. It must be so easily reached by the law that it cannot afford a shelter to the dishonest and a temptation to the weak. It should be manly enough to place itself beyond the reach of every passing criminal and guard the conduct of its affairs with attention to the moral sense of the community in which it exists. Existing as associations without laws and beyond restraint by the usual process of law, the moral forces in the labor movement will wither. But, if the unions will come into clean, frank contact with the other elements in society, they may flourish into a great power, not only for the good of the wage-earner, but for the welfare of all honest and hard working men.

END OF
TITLE